

## **METROPOLITAN AREA PLANNING COMMISSION**

### **MINUTES**

**June 7, 2007**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, June 7, 2007, at 9:30 A.M., in the Human Resources Training Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita Kansas.

The following members were present: Darrell Downing, Chair; Don Anderson, Vice-Chair; Bill Johnson; Bob Aldrich; Elizabeth Bishop; David Dennis; Don Sherman (Out @ 11:30 a.m.); Bud Hentzen; Ronald Marnell; Hoyt Hillman (Out @ 10:30); Morris K. Dunlap; Michael Gisick and G. Nelson Van Fleet.

John W. McKay Jr. and M.S. Mitchell were not present.

Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; Derrick Slocum, Associate Planner and Maryann Crockett, Recording Secretary.

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**CHAIRMAN DOWNING** introduced the new Planning Commissioner **DAVID DENNIS**.

- 1. Approval of the May 17, 2007 MAPC minutes.

**MOTION:** To approve the May 17, 2007 meeting minutes.

**ALDRICH** moved, **VAN FLEET** seconded the motion, and it carried (12-0).

- **1A. Center City South Redevelopment District, Exchange Place Project Plan.** Presented by Allen Bell.

**ALLEN BELL, ECONOMIC DIRECTOR FOR THE CITY OF WICHITA**, briefly reviewed the tax increment financing (TIF) plan for the Exchange Place Project, Center City South Redevelopment District. He referred Commissioners to the hand out provided with the agenda and indicated that the boundaries were First Street on the North, Main Street on the West, English Street on the South and Broadway on the North. He said Real Development; a group from Minnesota was sponsoring development in this area as a result of the arena vote. He said the project was the conversion of two empty downtown buildings (previously known as the Fourth National Bank Building [Exchange Place] and the Michigan Building) at the northeast corner of Market and Douglas into a mixed-use condominium complex. He said Spangenberg-Phillips were the architects on the project and that the conversion would feature 90-residential condominium units consisting of 1,000 square feet of living space, in addition to 100 residential parking spaces. In addition, 12,000 square feet of commercial space will be available on the ground floor of the complex. He said the land east of the Michigan Building would be a public parking structure consisting of approximately 150-200 parking spaces. He referred to a rendering of the current site and stated that the Lerner Building would be demolished to make way for the proposed parking structure. He also referred to a rendering of the proposed project "as built", including the exterior building treatment.

**BELL** said the TIF funds would be used to acquire the buildings on the site [Exchange Place, Michigan Building and the Lerner's Building] and the lots under the parking structure in addition to the cost of constructing the parking structure, which was estimated at \$4,500,000. He referred to a summary of the TIF including projected cash flow, bond costs, capitalized interest and average debt service. He also indicated that the current assessed valuation of the area was a little over \$10,500,000. He concluded by asking if there were any questions and requested that the MAPC consider a resolution finding that the Exchange Place Project Plan was consistent with the intent of the Comprehensive Plan for the development of Wichita.

**ALDRICH** reported that he leased office space from the applicant, but that would have no bearing on his decision. He asked if the duration of the TIF was until 2010?

**BELL** commented that 2010 was when the project revenues will have wrapped up to full strength. He said by law, the TIF has a twenty-year life from the date of approval of the Project Plan by the City Council. He said he believed the TIF went until 2027.

**ALDRICH** asked why the boundaries of the TIF didn't include Century II and other properties west of Main and on the southwest corner of Douglas and Main?

**BELL** said those areas are included in the East Bank District.

**BISHOP** asked if there was anything included in TIF to allow for construction with green elements such as grass on top of parking garages? She asked if those would be regarded as allowable expenditures?

**BELL** responded yes; landscaping and green spaces were included in the project costs. There was brief discussion concerning on-going maintenance, which he indicated revenues were set aside annually for on-going operating costs.

**MOTION:** To approve a resolution finding that the Exchange Place Project Plan is consistent with the intent of the Comprehensive Plan.

**ANDERSON** moved, **SHERMAN** seconded the motion, and it carried (12-0).

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❖ **Items # 2-1 and 2-5 may be taken in one motion unless there are questions or comments.**

Consideration of Subdivision Committee recommendations from the meeting of May 24, 2007.

**2-1. SUB 2007-50: One-Step Final Plat -- OAK CREEK 4<sup>TH</sup> ADDITION**, located south of 21<sup>st</sup> Street north and on the west side of Greenwich Road.

**NOTE:** This is a replat of a portion of Oak Creek 3rd Addition and a portion of the Oak Creek Addition. An additional lot has been proposed. The Oak Creek Community Unit Plan (CUP 2004-09, DP-274) was also approved for this site. The applicant proposes a zone change from LC, Limited Commercial to SF-5, Single-Family Residential for Lots 1-4.

**STAFF COMMENTS:**

- A. The applicant shall contact **Debt Management** regarding the submission of a respread agreement for existing improvements.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** has approved the applicant's drainage plan. Minimum pad elevations need to be platted.
- D. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- E. Since this is a replat of previous Additions involved with the ownership and maintenance of reserves for that Addition, but not being replatted by this Addition, the above covenants and/or other legal documents shall be provided which provides for this Addition to continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.
- F. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either

form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.

- G. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- H. A CUP adjustment or amendment is needed so that perimeter of the proposed lots matches the perimeters of the CUP parcel boundaries.
- I. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- J. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- K. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**MOTION:** To approve subject to staff recommendation.

**JOHNSON** moved, **ALDRICH** seconded the motion, and it carried (12-0).

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- 2-2. **SUB 2007-45: One-Step Final Plat -- NORTHEAST BASEBALL COMPLEX ADDITION**, located on the north side of 29<sup>th</sup> Street North and the west side of Greenwich Road.

NOTE: This is an unplatted site located within the City.

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of City water. Sewer is available at the southeast corner of the plat but this property has never been assessed so in lieu of assessment fees are needed for both main and lateral to connect. If the lateral were extended by private project, in lieu of assessment fees would be needed for the main. If a petition is provided, the in lieu of assessment fees may be included with the petition.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the applicant's drainage plan. County Engineering requests a drainage plan and a flood study. A drainage dedication is needed to drain water across the plat from Jabara Airport. Note 8 on the preliminary plat appears to be incorrect as there is some zone A on property.
- D. County Surveying advises that the width of the utility easement is needed on L7.
- E. County Surveying advises that additional designations for utilities are needed along the east side.
- F. County Surveying advises that the basis of bearing needs to be corrected from west side of SE ¼ to east side of SE ¼.
- G. County Surveying advises that the bearing along Greenwich Road needs to be corrected.
- H. The plat proposes one opening along Greenwich. "Access control except one opening" shall be denoted on the face of the plat. The final plat tracing shall reference the dedication of access controls in the plat's text.
- I. A cross-lot circulation agreement is needed to assure internal vehicular movement between this property and the Regency Park Addition to the south.
- J. A reserve shall be platted for a turnaround for 29<sup>th</sup> St. North. A restrictive covenant shall be submitted to permit public access onto the Reserve for turnaround movements.
- K. A block number or letter shall be denoted on the face of the plat.
- L. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- M. The City Council certification needs to be revised to reference Carl Brewer, Mayor.
- N. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- O. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- P. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public,

who acknowledges the signatures on this plat, to be printed beneath the notary's signature.

- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. Westar Energy has requested additional easements.
- W. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**MOTION:** To approve subject to staff recommendation.

**JOHNSON** moved, **ALDRICH** seconded the motion, and it carried (12-0).

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- 2-3. **SUB 2007-47: One-Step Final Plat -- EASY CREDIT AUTO SALES ADDITION**, located north of 47<sup>th</sup> Street South and on the east side of Broadway.

NOTE: This is an unplatted site located within the City.

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of sanitary sewer. An off-site easement may is needed.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the applicant's drainage plan. An off-site drainage agreement is needed.
- D. The plat proposes one access opening along Broadway. Traffic Engineering has approved the access controls.
- E. The proposed right-of-way along Broadway has been approved by Traffic Engineering.
- F. A No Protest agreement for future paving of 43<sup>rd</sup> St. shall be submitted.
- G. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- H. The platlor's text shall include language that a drainage plan has been developed for the plat and that all

drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

- I. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- J. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- K. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- L. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- M. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**MOTION:** To approve subject to staff recommendation.

**JOHNSON** moved, **ALDRICH** seconded the motion, and it carried (12-0).

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- 2-4. **SUB 2007-49: One-Step Final Plat -- PRAIRIE POND PLAZA 2<sup>ND</sup> ADDITION**, located on the northeast corner of 143<sup>rd</sup> Street East and Kellogg.

**NOTE:** This is a replat of the Prairie Pond Plaza Addition. The street has been relocated and one additional lot is proposed. The Prairie Pond Plaza Community Unit Plan (CUP 2003-65, DP-273) was also approved for this site.

**STAFF COMMENTS:**

- A. Petitions have been provided with Prairie Pond Plaza for sewer, water, paving and traffic improvements. New petitions are needed for proposed improvements. A water extension is needed to serve the lots, along with a sewer extension to serve Lots 2 and 3. A respread agreement for existing sewer improvements is also needed. A temporary easement by separate instrument should be submitted to cover the existing sewer line to be relocated unless the sewer line is relocated before the plat is recorded.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** has approved the applicant's drainage plan. **County Engineering** requests submittal of a drainage plan.

- D. Access controls have been platted in accordance with Prairie Pond Plaza Addition.
- E. In accordance with the CUP approval, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- F. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- G. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- H. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- I. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- J. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**MOTION:** To approve subject to staff recommendation.

**JOHNSON** moved, **ALDRICH** seconded the motion, and it carried (12-0).

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**2-5. SUB 2007-17: One-Step Final Plat – SAVINA 5<sup>TH</sup> ADDITION, modification of Off-Street Parking Requirement.**

This plat was approved by the Metropolitan Area Planning Commission April 26, 2007, with the following requirement:

“O. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 32-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.”

Due to the construction of single-car garages, which would allow for only two (2) off-street parking spaces, the Applicant is requesting that this requirement be waived. In accordance with Article 10 of the [Subdivision Regulations, modifications of design criteria may be waived by the Planning Commission](#).

At the Subdivision meeting of May 24, 2007, the Subdivision Committee recommended a waiver of this requirement.

**MOTION:** To approve subject to staff recommendation.

**JOHNSON** moved, **ALDRICH** seconded the motion, and it carried (12-0).

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**HILLMAN OUT**

❖ **PUBLIC HEARINGS – VACATION ITEMS**

**3-1. VAC 2007-15: Request to vacate a portion of platted complete access control**

<b><u>OWNERS/APPLICANT:</u></b>	USD 259 c/o Joe Hoover
<b><u>LEGAL DESCRIPTION:</u></b>	An additional drive plus the two allowed, on the platted complete access control located on the north lot line of Lot 1, Block 1, 21 <sup>st</sup> Street Kids and Family Empowerment Addition, Wichita, Sedgwick County, Kansas
<b><u>LOCATION:</u></b>	Generally located east of Grove Avenue, on the south side of 25 <sup>th</sup> Street North (WCC #1)
<b><u>REASON FOR REQUEST:</u></b>	Improve on site circulation for busses and other vehicles associated with school activities.
<b><u>CURRENT ZONING:</u></b>	The site is and the abutting southern property are part of Planned United Development PUD-20. The adjacent western and northern properties are zoned “SF-5” Single-family Residential. The adjacent eastern properties are zoned “LC” Limited Commercial.

The applicant has applied for the vacation of the complete access control to allow another drive, for a total of three, along the site’s 656.77-feet of 25<sup>th</sup> Street North frontage. The request will allow better circulation of the site’s buss traffic and other vehicles using the new school site. There is platted street ROW north, across 25<sup>th</sup>, from the site: Spruce, Madison & Ash Avenues. 25<sup>th</sup> Street North, as well Spruce, Madison & Ash Avenues are classified as a residential street at this location. At the Grove Avenue and 25<sup>th</sup> intersection, both streets are classified (25<sup>th</sup> only on the east side of this intersection) as urban collectors. There are no manholes or sewer line in the requested area. There is a private water line that crosses the frontage. The 21<sup>st</sup> Street Kids and Family Empowerment Addition was recorded with the Register of



Deeds December 6, 2005.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from Public Works, the Traffic Engineer, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate a portion of the platted access control, per the approval of the Traffic Engineer, with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time May 17, 2007 which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described portion of platted complete access control and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of a portion of the platted complete access control described in the petition should be approved with conditions:
- (1) Vacate that portion of platted access control along the site's 25<sup>th</sup> Street North frontage, as approved by the Traffic Engineer. Full movement drives require 400-feet of spacing and 200-feet is required for "right-in, right-out" types of access. Provide Planning Staff with a legal as approved by the Traffic Engineer, via E-mail on a Word document.
  - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide any required dedications of easements to cover utilities.
  - (3) All improvements shall be according to City Standards and at the applicant's expense, including any driveways from private property onto public ROW. Provide Public Works with a guarantee to ensure that those improvements will be made.
  - (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions;

- (1) Vacate that portion of platted access control along the site's 25<sup>th</sup> Street North frontage, as approved by the Traffic Engineer. Full movement drives require 400-feet of spacing and 200-feet is required for "right-in, right-out" types of access. Provide Planning Staff with a legal as approved by the Traffic Engineer, via E-mail on a Word document.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide any required dedications of easements to cover utilities.
- (3) All improvements shall be according to City Standards and at the applicant's expense, including any driveways from private property onto public ROW. Provide Public Works with a guarantee to ensure that those improvements will be made.

- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**MOTION:** To approve subject to staff recommendation.

**ALDRICH** moved, **ANDERSON** seconded the motion, and it carried (11-0).

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❖ **PUBLIC HEARINGS**

4. **Case No.: ZON2007-16** – Christopher E & Tamlyn Ann Van Request City zone change from “SF-5” Single-family Residential to “LC” Limited Commercial on property described as;

Lots 70, 72 and 74 of the Riverbend Addition of Wichita, Sedgwick County, Kansas. Generally located West of Arkansas Avenue on the northwest corner of 21st Street North and Salina Street.

**BACKGROUND:** The applicant is requesting “LC” Limited Commercial zoning on Lots 70, 72, & 74, Lucy Avenue, River Bend Addition. The site is currently zoned “SF-5” Single-family Residential. The applicant appears to be in the process of converting the existing single-family residence (built 2001) to office space for tax preparation and translation services.

The site, a corner lot, has recently had the south, street side yard (up to the sidewalk) and both the rear (west) and front (west) side yards paved for a parking lot. There are no barriers between the parking lot and the sidewalk to prevent parked vehicles from encroaching into the sidewalk. There has been no code required landscaping improvements on the site. A recently constructed wooden fence has also been erected along the property’s west and east sides. Along the site’s north side an older fence, in need of some repair, is located in the neighbor’s “SF-5” zoned single-family residence/lot. On the subject site’s east side it has a drive onto Salina Street, a paved residential street. There is an unpaved alley the site has access to its west side. Both the alley and Salina intersect 21<sup>st</sup> Street North. A small drainage ditch runs along the site’s 21<sup>st</sup> frontage and has prevented a drive from the site directly onto 21<sup>st</sup>.

The Little Arkansas River is located south of the site, across 21<sup>st</sup> Street North. This particular section of the river peaks in an arch (as does the parallel 21<sup>st</sup>) in front of the subject site. The “21<sup>st</sup> Street North Corridor Revitalization Plan” recommends this portion of the Little Arkansas greenway be part of a parkway that runs from (two-blocks west of the site) Hood Street to (east) Woodland Park. The Plan recommends that the parkway be embellished through some roadway improvements, including curb and gutter, maintenance, a distinct pathway and additional informal planting of trees. There is a well-kept asphalt path and some recent tree plantings plus landscaping in the parkway south of the site, across 21<sup>st</sup>. Properties abutting and adjacent to the site’s north and east sides are zoned “SF-5” and are part of a single-family residential neighborhood. There is a “GO” General Office zoned property located a block east of the site. This property (Z-2523, 8-9-83) has a single-family residence (built 1998) on the back portion of it, while its front portion (different owner) is vacant. The property adjacent (across the unpaved alley) to the west side of the site is zoned “LC” Limited Commercial (Z-2623, 8-21-84) and is developed as an (built 1940) upholstery shop.

The site is located two-blocks east of the Thai Bin Asian Market (“LC”, DP-18), and four-blocks east of the bridge over the Little Arkansas. The Plan recommends the Market as the Asian Ethnic Anchor for its west sub-region. The Market is currently having improvements done to its exterior. There is a small cluster of “LC” zoned small businesses and a “GO” medical office and church around the Market. The Plan recommends that any new development or redevelopment consider utilizing Asian design influences to help support this theme. The Plan also recommends that the Little Arkansas Bridge be one of three gateways into the Plan’s whole area and that development along 21<sup>st</sup> have landscaping.

**CASE HISTORY:** The site is part of the River Bend Addition, which was recorded with the Register of Deeds April 23, 1887

**ADJACENT ZONING AND LAND USE:**

NORTH:	"SF-5"	single-family residences
SOUTH:	Little Arkansas River	parkway
EAST:	"SF-5"	single-family residences
WEST:	"LC"	upholstery shop

**PUBLIC SERVICES:** All municipal services and utilities are available. Salina Street is a paved residential street. This portion of 21<sup>st</sup> Street North is a paved four-lane facility that is depicted on the 2030 "Transportation Plan" as remaining a four-lane arterial. There are currently approximately 17,500 ATD on this portion of 21<sup>st</sup>. The 2030 projection is 25,000 ATD. There is approximately 55-feet of half-street right-of-way at this location.

**CONFORMANCE TO PLANS/POLICIES:** The "2030 Wichita Functional Land Use Guide", of the Comprehensive Plan identifies the site as appropriate for "urban residential." The "urban residential" category includes all densities of residential development found within the urban municipality. The site is part of an unbroken "SF-5" zoned neighborhood (with the exception of the previously mentioned partially vacant "GO" property) located along the north side of 21<sup>st</sup> from Salina, east to Shelton Street, which is the east boundary of Woodland Park. The site is also located within the "21<sup>st</sup> Street North Corridor Revitalization Plan," which recommends retaining the existing residential uses along the north side of 21<sup>st</sup>, while clustering retail around existing anchors, such as the Thai Bin Asian Market, located two-blocks west of the site. The applicant began the conversion of the single-family site to a commercial site prior to applying for the appropriate zone change. The applicant's premature conversion of the site to commercial is not in compliance with the "Land Use Guide," nor is it in compliance with the "Revitalization Plan." The partially completed conversion and the requested "LC" zoning are not in compliance with either plan. The paved over front and side yards of the site does not provide any space for the required landscaping of the site.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request for the "LC" zoning be DENIED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Properties in the area around the site are zoned predominately "SF-5" and are single-family residential. The exceptions are the western adjacent "LC" zoned upholstery shop and the "GO" zoned property a block east of the site. The "LC" zoned property was rezoned from single-family residential in 1984 and the single-family residence was converted to a commercial use. The "GO" zoned property was rezoned from single-family residential in 1983 and has never developed as office, the back part of it remains single-family, while the front remains vacant. These two properties were, up till now, the latest rezoning in the immediate area and the current case is the first since the adoption of the "21<sup>st</sup> Street North Corridor Revitalization Plan," in the Plan's west sub-region.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "SF-5". The site could continue to be used as it is currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: This is a single-family residential neighborhood and the proposed "LC" zoning is out of character with it. The proposed rezoning could encourage a slow stripping out of this portion of 21<sup>st</sup>, although the lack of success in developing the "GO" zoned property (rezoned 24-years ago) east of the site (which appears to be too small) would seem to indicate that this portion of 21<sup>st</sup> on its north side is not appropriate for nonresidential zoning. Code requirements for compatibility setbacks, screening, landscaping, access and imposing signage limitations could minimize the impact on residential development.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide", of the Comprehensive Plan identifies the site as appropriate for "urban residential." The site is also located within the "21<sup>st</sup> Street North Corridor Revitalization Plan," which recommends retaining the existing residential uses along the north side of 21<sup>st</sup>, while clustering retail around existing anchors, such as the Thai Bin Asian Market, located two-blocks west of the site. The site does not conform to the Comprehensive Plan and policies.

5. Impact of the proposed development on community facilities: Traffic onto 21<sup>st</sup> Street North would increase off of the site and drainage off the site will increase because of the extensive paved parking already in place.

However, if the MAPC finds the requested "LC" zoning appropriate, Staff recommends that the following Protective Overlay, PO #188:

- (1) Dedicate complete access control along the site's 21<sup>st</sup> frontage,
- (2) Install approved parking barriers along the site's 21<sup>st</sup> frontage and the undeveloped Alley.
- (3) Provide a landscape/site plan for approval that would insure that landscaping be installed per the standards of the Landscape Ordinance's street yard landscaping and a landscape buffer between it and the abutting and adjacent "SF-5" zoned properties; the exception to the Landscape Ordinance does not apply to this site.
- (4) All outside lighting be no taller than 14-feet tall and located outside all setbacks.
- (5) The applicant/owner provide a restrictive covenant to ensure that a wooden fence always be up and in good repair along its north property line.
- (6) All dumpsters have a wooden fence with a gate around them and not are visible from 21<sup>st</sup> Street North.
- (7) Signage is limited to what is permitted in the "NO" zoning district.
- (8) All compatibility setbacks would be in effect as well as all parking requirements.
- (9) The planting and all other conditions will be implemented within 90 days of approval by the Governing Body or the zoning will be considered null and void.

If the MAPC approves a nonresidential zoning, Staff recommend approvals of "NO" Neighborhood Office. "NO" zoning accommodates very low intensity office development and other complimentary land uses that are generally appropriate near residential development and would allow the applicant to use the property for what they have proposed; tax preparation and translation services. Staff would recommend the same PO for the "NO" zoning as they would for the "LC" zoning

**BILL LONGNECKER**, Planning staff presented the staff report.

**LONGNECKER** explained that the applicant had revised his request to "NO" Neighborhood Office zoning with the Protective Overlay, and that this revised request was presented to DAB VI. He said staff is in agreement with the "NO" zoning with the Protective Overlay presented, however, DAB VI recommended denial.

**ALDRICH** asked how "NO" complies with the 21<sup>st</sup> Street Corridor Revitalization Plan?

**LONGNECKER** said it doesn't comply with the plan. He said this area is supposed to be urban density residential. He said that regardless whether the MAPC approves the "NO" zoning, the applicant will need to get with the Zoning Administrator concerning the concrete parking covering most of the site's front, street side and rear yards.

**PAUL HAMPTON, APPLICANT**, requested approval of the application.

**JOHNSON** asked the applicant if he was in favor of the "NO" zoning?

**HAMPTON** responded yes.

Responding to a question from **ALDRICH** concerning the DAB's vote to deny, **LONGNECKER** explained that the DAB wanted the area to remain "SF" Single-family Residential zoning and preferred a home occupation at the site.

**BISHOP** clarified that the Protective Overlay was a part of the "NO" and requested that the applicant confirm that they understood the Overlay.

**LONGNECKER** explained that he and the applicant had gone over the provisions of the Protective Overlay and the applicant had agreed to them.

**MOTION:** To approve subject to staff recommendations, which was "NO" Neighborhood Office with the Protective Overlay.

**JOHNSON** moved, **MARNELL** seconded the motion.

There was brief discussion.

**SUBSTITUTE MOTION:** To deny the application.

**ALDRICH** moved, **VAN FLEET** seconded the motion, and it failed (4-7). **ANDERSON, DOWNING, DUNLAP, GISICK, HENTZEN, JOHNSON, SHERMAN** - No.

**ORIGINAL MOTION** carried (8-3). **ALDRICH, DENNIS** and **VAN FLEET** – No.

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5. **Case No.: ZON2007-17** – Harold Sutter (applicant), Baughman Company, P.A., c/o Terry Smythe Request City zone change from “SF-5” Single-family Residential to “LC” Limited Commercial on property described as;

Beginning 1246.25' North and 30' East of the Southwest corner of the Southwest 1/4; thence East 590'; thence North 366'; thence West 590'; thence South 366' to beginning 3-27-2E. Generally located 1/4 mile north of 21st Street North on the east side of Greenwich Road (2400 North Greenwich Road).

**BACKGROUND:** The applicant requests a zone change from “SF-5” Single-family Residential to “LC” Limited Commercial on an unplatted 4.8-acre parcel. The site is less than six acres; therefore the Unified Zoning Code (UZY) will not require a Community Unit Plan to develop the property under commercial zoning. The site is located east of Greenwich and south of K-96. The applicant intends to develop the site with commercial uses.

North and east of the site is an SF-5 zoned cemetery, with a wireless communications tower, approved as a conditional use (CU-435) in 1997. Property north and east of the site was also approved for LC zoning and DP-291, Cedar Creek Marketplace Commercial CUP, subject to platting by August 7, 2007. South of the site is an LC zoned strip center, west of the site is the LC and GC zoned Regency Lakes Commercial CUP (DP-234) with retail and restaurant uses.

**CASE HISTORY:** The unplatted property has a single-family residence built in 1929.

**ADJACENT ZONING AND LAND USE:**

NORTH:	“SF-5”	Single-family residence
SOUTH:	“LC”	Strip commercial
EAST:	“SF-5”	Cemetery, wireless communication tower
WEST:	“LC,” “GC”	Retail, restaurant

**PUBLIC SERVICES:** The subject property has frontage along Greenwich Road, a four-lane paved arterial with a 50-foot half-street right-of-way (ROW) at the application area. Greenwich at the site has a raised median with turn lane access to the Regency lakes CUP.

Current traffic volumes on this portion of Greenwich are 5,309 vehicles per day. The 2030 Transportation Plan shows this portion of Greenwich remaining a four lane arterial. The site has municipal water and sewer.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the site as appropriate for “Regional Commercial” use. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites be located adjacent to arterials and employ site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

The Unified Zoning Code (UZC) would require screening and compatibility setbacks from residential zoned property. The Landscape Ordinance would require a landscape plan for the proposed development.

The Wichita Access Management Policy would require that Greenwich have a 60-foot half-width ROW (ten feet more than what presently exists). The policy would require 200 feet between right-in right-out openings, and 400

feet between full movement openings, and would promote cross-lot circulation with commercial developments to the north, south, and east.

**RECOMMENDATION:** This request conforms to the Comprehensive Plan Land Use Guide and Commercial Locational Guidelines. ROW width and access control are concerns with commercial development at this location on a heavily traveled arterial street with nearby expressway access. ROW dedication, access control, and drainage issues should be resolved through the platting process.

Based upon the information available prior to the public hearings, planning staff recommends that the requested zone change be APPROVED, subject to platting the property within one year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by commercial zoning and uses south and west of the site, near the Greenwich/21<sup>st</sup> Street North and the Greenwich/K-96 intersections. North and east of the site is characterized by residential zoning with a cemetery, a wireless tower, and undeveloped land.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "SF-5" Single-family Residential and could continue to be used for residential development. The site may not be desirable for residences due to arterial street frontage near an expressway.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Permitted land uses under the requested LC zoning will be more intense than those permitted under the current residential zoning. Property north and east of the site is owned by a cemetery, and will most likely never develop with residential uses. Therefore, removal of restrictions on this site will have no detrimental affect on nearby property.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the site as appropriate for "Regional Commercial" use. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites be located adjacent to arterials and employ site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas.
5. Impact of the proposed development on community facilities: Provided that drainage and traffic access policies are met, community facilities should not be impacted by the proposed development.

**MOTION:** To approve subject to staff recommendation.

**JOHNSON** moved, **ALDRICH** seconded the motion, and it carried (11-0).

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6. **Case No.: ZON2007-19** – 31<sup>st</sup> South Rock Investments, LLC c/o Rob Ramseyer (owner); Baughman Company, PA, c/o Russ Ewy (agent) Request County zone change from "SF-20" Single-family Residential to "IP" Industrial Park on property described as;

The South half of the Northwest Quarter of Section 8, Township 28-South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, EXCEPT that part of said Northwest Quarter described as follows: Commencing at the Southwest corner of said Northwest Quarter; thence northerly along the west line of said Northwest Quarter, 150.02 feet to a point 150.00 feet normally distant north of the south line of said Northwest Quarter, and for a point of beginning; thence easterly parallel with the south line of said Northwest Quarter, 660.10 feet to a point 660.00 feet normally distant east of the west line of said Northwest Quarter; thence northeasterly to a point 266.00 feet normally distant north of the south line of said Northwest Quarter and 770.00 feet normally distant east of the west line of said Northwest Quarter; thence northerly parallel with the west line of said Northwest Quarter, 1065.55 feet, more or less, to a point on the north line of the South half of said Northwest Quarter; thence westerly along the north line of the South half of said Northwest Quarter, 770.05 feet to the Northwest Quarter corner of the South half of said Northwest Quarter; thence southerly along the west line of said Northwest Quarter, 1177.10 feet, more or

less, to the point of beginning, and EXCEPT that part taken for road. Generally located 800 feet east of Rock Road approximately 1/2 mile south of 31st Street South.

**BACKGROUND:** The applicant requests rezoning of a 60-acre tract from “SF-20” Single-family Residential to “IP” Industrial Park. The property is located approximately 800 feet east of Rock Road and located between one-fourth and one-half mile south of 31<sup>st</sup> Street South. The proposed industrial park site would be separated from Rock Road by a commercial development, DP-300 Rocky Ford Commercial Community Unit Plan on property zoned “LC” Limited Commercial.

The property is located close to McConnell Air Force Base and would be located within the AT/FPO Anti-Terrorism/Force Protection Overlay District designed to regulate the height of structures. The property also is within the area designated as appropriate for “IP-A” Industrial Park-Airport District.

The main difference between IP and IP-A are additional use restrictions to eliminate uses that generate higher volumes of employees/patrons per square mile, in order to be more compatible with the operation of airport and related facilities. The uses eliminated by IP-A compared with IP include the civic uses of auditorium, cemetery, college and university, community assembly, day care, library, and parks and recreation subject to a limitation of 25 participants/spectators per acre. Excluded commercial uses are: animal care, ATM, bank and financial institution, broadcast/recording studio, convenience store, farmers market, office, personal care service, personal improvement service, post office substation, restaurant, tattoo, vocational school, and wireless communication facility.

The site currently is in agricultural use and is zoned SF-20. The property to the north, east and south is zoned SF-20 and is in agricultural use. The property to the west is approved for LC development (DP-300) but currently is vacant. McConnell is located west of Rock Road.

**CASE HISTORY:** The property is unplatted. A residential plat was filed for the property (SUB2006-10) but not completed.

**ADJACENT ZONING AND LAND USE:**

NORTH:	SF-20	Agricultural
SOUTH:	SF-20	Agricultural/farmstead
EAST:	SF-20	Agricultural
WEST:	SF-20, AFB	Agricultural (vacant), McConnell

**PUBLIC SERVICES:** The property is located on Rock Road, a principal arterial. Traffic counts for 2006 were 17,221 vehicles per day on Rock Road between 31<sup>st</sup> Street South and 39<sup>th</sup> Street South. The 2030 projection for Rock Road is 31,500. A narrow strip of property extends from the main tract of property along the half-section line to Rock Road and would be the primary access route. Other normal public services will be available and provided for during the platting process.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “employment/industry center.” It also showed it as “Potential Future Park Site.” The employment/industry center recommendation was based upon the 1994 Air Installation Compatible Use Zone (AICUZ) study for McConnell AFB and the property remains within the “Maximum Mission Area” identified by the Joint Land Use Study. The site is within the one-half mile wide anti-terrorism/force protection zone around McConnell. The new IP-A district is designed to accommodate uses in proximity to airports and related facilities. The IP-A statement of purpose in the Unified Zoning Code is identical to that for the IP district except for encouraging uses compatible to airport operations and eliminating uses within the commercial, services and administrative categories.

**RECOMMENDATION:** Based on the location of the tract near McConnell and the safety and security concerns associated with this proximity, coupled with the separation of the tract by a commercial development fronting onto Rock Road, IP-A is an ideal zoning district. It limits uses to industrial park with a few civic and commercial uses that attract fewer patrons typically. Based on these factors and information available prior to the public hearings, planning staff recommends that the request for IP be denied but that the property be approved for IP-A.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property is located within one-half mile of McConnell Air Force Base. The site is currently zoned SF-20 and is in agricultural use. The property to the north, east and south is zoned SF-20 and also is in agricultural use with scattered farmsteads. The property to the west is approved for LC development (DP-300) but currently is vacant.
2. The suitability of the subject property for the uses to which it has been restricted: According to the recommendations of the Joint Land Use Study, the property is less suitable for traditional residential development than for Industrial park development.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed recommendation of IP-A honors the recommendations of the use of property in the vicinity of McConnell AFB and near airport operations.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "employment/industry center." It also showed it as "Potential Future Park Site." The employment/industry center recommendation was based upon the 1994 Air Installation Compatible Use Zone (AICUZ) study for McConnell AFB and the property remains within the "Maximum Mission Area" identified by the Joint Land Use Study. The site is within the one-half mile wide anti-terrorism/force protection zone around McConnell. The new IP-A district is designed to accommodate uses in proximity to airports and related facilities. The IP-A statement of purpose in the Unified Zoning Code is identical to that for the IP district except for encouraging uses compatible to airport operations and eliminating uses within the commercial, services and administrative categories.
5. Impact of the proposed development on community facilities: Predicting traffic generation rates for industrial parks is difficult because of the wide range of potential uses and great variability in employment for manufacturing compared to wholesaling types of activities. However, the restriction from IP to IP-A should decrease traffic generation from uses such as restaurants, personal care services, banks, and convenience stores, which are relatively intensive traffic generators.

DONNA GOLTRY reported that the agent had requested a two-week deferral on this application.

**MOTION:** To defer application until the June 21, 2007, MAPC hearing.

JOHNSON moved, ALDRICH seconded the motion, and it carried (11-0).

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7. **Case No.: ZON2007-20** – Motel, LLC (Dave Bayouth, Lindy Andeel) / W. Duane Wadley (agent) Request City zone change from "SF-5" Single-family Residential to "LC" Limited Commercial of a narrow strip of property for screening wall, and reduction of compatibility setbacks on property described as;

South 8 feet of the East 100 feet of Lot 2, Block 7 and South 8 feet of Lot 3, Block 7 and South 8 feet of Lot 4, Block 7 and South 8 feet of Lot 5, Block 7 of the Bonnie Brae Addition, Wichita, Sedgwick County, Kansas. Generally located 250 feet north of Kellogg Drive midway between Heather Street and Bonnie Brae Street (8225, 8233, 8301, 8307 Peach Tree Lane and 8300 East Kellogg).

**BACKGROUND:** The applicant is seeking to rezone property from SF-5 Single-family Residential to LC Limited Commercial, and a reduction of the rear compatibility setback standards from 25 feet to 22 feet.

The site to be rezoned is the southern eight feet of four platted lots (Lots 2,3,4 & 5, Block 7, Bonnie Brae Addition) located on the south side of East Peach Tree Lane (8225, 8223, 8301 and 8307 East Peach Tree Lane) and west of Heather Road. The applicant is seeking LC Limited Commercial zoning on the rear eight feet. All four lots are currently zoned SF-5 Single-family Residential, and developed with single-family residences. All four of these residential platted lots have 140 feet of depth, and vary in lot width of 97.5 feet or 100 feet, so the minimum lot size among the four lots is 13,650 square feet. Deducting the land area (800 square feet) under zoning consideration from the original lot size results in a residual lot size of 12,850 square feet. The SF-5 Single-family Residential zoning district requires 5,000 square feet of minimum lot area. Based upon Sedgwick County Appraiser data, it



appears the four individual lot owners have sold off the southern eight feet to the applicant, Motels, LLC. The applicant indicates he will build a six-foot high concrete screening wall along the common property line.

Motels, LLC is the property owner of the two lots located immediately south (Part of Lots 3 and 4, Ruth Addition) of the area to be rezoned. These lots are zoned LC Limited Commercial, are vacant and have 417 feet of frontage on East Kellogg's north frontage road. Motels LLC desires to build a three-story "Best Western" motel on this site, which has 122 feet of depth, not including the eight feet that are the subject of this rezoning application.

The applicant has provided a site plan that shows an 80-foot wide motel (including drive-thru canopy), a 24-foot wide driveway and a four-foot landscaping strip for a total of 108 feet from the front property line to the rear of the proposed building. On a 130-foot deep lot, that leaves a rear building setback of only 22 feet. Unified Zoning Code rear compatibility setback requirements are 25 feet. Compatibility standards also prohibit the placement of a dumpster within 20 feet of TF-3 or more restrictive zoning. However, the City Council can modify those distances. The applicant is seeking a reduction of the rear compatibility setback from 25 feet to 22 feet.

Compatibility height standards prohibit buildings taller than 35 feet from being within 50 feet of SF-5 or TF-3 zoned property. The applicant has indicated the building will be 35 feet or less in height.

The lots located north and east of the lots requesting rezoning are all developed with single-family residences, and are zoned SF-5. The lot to the west of the application area is split zoned between LC Limited Commercial and developed with a motel and SF-5 Single-family Residential and developed with a home. The lots east and west of the proposed motel site are zoned LC, and developed with motels. The motel to the east sits within 10 feet of the rear property line, while the motel to the west has parking adjacent to single-family homes behind the motel.

The LC zoning district has a 20-foot front building setback, however the code permits drive-thru canopies to be located within eight feet of the front setback.

**CASE HISTORY:** The Bonnie Brae Addition was recorded in 1953. The Ruth Addition was platted in 1959.

**ADJACENT ZONING AND LAND USE:**

NORTH:	SF-5	Single-family Residential; single-family residences
SOUTH:	LC	Limited Commercial; vacant
EAST:	SF-5	Single-family Residential; single-family residence
WEST:	SF-5	Single-family Residential; single-family residence

**PUBLIC SERVICES:** An eight-foot utility easement was established along both sides of the common rear lot line. A sewer line exists within the utility easement, as do overhead utility lines.

**CONFORMANCE TO PLANS/POLICIES:** The "2030 Wichita Functional Land Use Guide" map depicts the application area as appropriate for "urban residential." Unified Zoning Code's compatibility standards require that dumpsters and refuse receptacles located on MF-18 or less restrictive zoned property must be located 20 feet away from property zoned TF-3 or SF-5. Compatibility setback standards require that uses in MF-18 or less restrictive that are adjacent to TF-3 or SF-5 zoning shall have a minimum rear and side setback of 15 feet, plus one foot for each five feet of lot width over 50 feet, up to a maximum width of 25 feet. On properties zoned MF-18 or less restrictive, compatibility height setback requirements limit building height to 35 feet when located within 50 feet of the lot line of a TF-3 or SF-5 zoned lot. Trash receptacles, ground level heating and air conditioning units and other similar uses must be screened from residential zoning districts or public street right-of-way located within 150 feet of the use. Outdoor lighting sources shall employ cut-off luminaries, and shall be mounted at a height not exceeding one-half the distance from the neighboring lot, unless an alternate mounting height that achieves the same objective is approved by the Zoning Administrator.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the installation of a concrete wall instead of a wooden fence, as offered by the applicant.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The application area is a transitional area. One side is zoned LC Limited Commercial, has frontage on a nationally significantly cross-country highway carrying thousands of vehicles a day, and developed with highway oriented commercial uses. The other side of the application area is zoned SF-5 and developed with single-family residences served by a street system developed for low intensity uses. There is already an irregular pattern to the boundary line separating the commercial side from the residential side due to earlier platting decisions, especially to the west. Approval of the request is not inconsistent with already existing motel development patterns to the east and west.
2. The suitability of the subject property for the uses to which it has been restricted: The residentially zoned lots are already developed appropriately as zoned. However with the sale of the rear eight feet to a potential motel developer the tracts are not appropriately zoned to support commercial uses. Denial would also require the applicant to modify his building plans and potentially cause him to lose affiliation with the Best Western chain.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval will project LC commercial eight feet further north along the east property line. The applicant's offer to construct a concrete wall is a significant step up from a wooden screening fence. Landscape buffering will also be triggered. Required setbacks, landscaping and screening should moderate any expected negative impacts. The property owners have already sold the land to the adjacent property. Presumably is they had concerns they would not have sold their property.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request should facilitate the development of the property as proposed.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" map depicts the application area as appropriate for "urban residential." However, movement of the boundary between these two uses by eight feet is not significant.
6. Impact of the proposed development on community facilities: Existing facilities are able to accommodate proposed uses.

**DALE MILLER**, Planning staff presented the staff report.

**MILLER** reported that DAB II could not take official action because only two DAB members were present at the meeting. He said the Council Member requested that the application be brought back to the DAB for review in July.

**MARNELL** clarified that the unit to be built on the vacant lot would be further from the residences than the property next door, and that the waiver request on the set back was on the back property line.

**MILLER** responded yes to both points. He mentioned the platting of the area and the lot split creating the two building sites.

Responding to a question from **JOHNSON** about the 8-foot rezoning, **MILLER** responded that staff did recommend approval.

**ALDRICH** asked about screening requirements.

**MILLER** said the standard zoning requirements applied and added that he believed the applicant has agreed to build a concrete/masonry wall (although not required by City Code) as the result of a private agreement with the property owners at the time of sale.

**BISHOP** asked about placement of a dumpster mentioned in staff comments.

**MILLER** said they would have to move the dumpster or ask for a variance.

**BISHOP** also asked about any outdoor lighting restrictions and luminaries.

**MILLER** said he included the standard City Code requirements. He commented that light standards require that lights be half the distance to the property line in addition to the requirement that any lighting have luminaries so it does not go off the property line.

**ROD STEWART, 5501 COE DRIVE, COMMERCIAL INVESTMENT REAL ESTATE BROKER AND AGENT**, said the building they were proposing to construct would be along the same area and have the same setback as the two existing buildings. He said a new standard was created which was a 25-foot building setback instead of the original 10-foot building set back. He said they would like to be able to have people unload their cars out of the rain in front of the property. He said they have to have the extra three feet; otherwise they don't have enough room to have a portico in front of the building so people can unload their cars. He also explained that there would be no access in the back of the building. He said the structure will be a new Best Western Hotel and that the neighborhood needed it with the loss of the La Quinta. He added that it would fit in nicely with the other transformations that were taking place in the area. He also said it was a good use for the real estate. He added that the previous owners negotiated the eight-foot deal with the four homeowners, and that the property will be transferred to them. He concluded by saying that they have agreed to extensive landscaping far above what is required by City Code.

**JOHNSON** asked about the wall?

**STEWART** said they have committed to build 6-foot masonry wall with substantial landscaping improvements.

**BISHOP** asked if they would consider increasing the lighting in back of the building beyond what the City requires, such as down lighting and motion detectors?

**STEWART** said certainly, that they didn't want anyone behind the building either. He added that he was not the builder, and did not know what standards might exist with Best Western.

**DUANE WADLEY, 2548 WILLOWS, PROJECT BUILDER**, he said they want to make the lighting so it will not be intrusive to the neighbors property.

**BISHOP** said she believed Planning Staff could recommend lighting that would be appropriate for the situation.

**WADLEY** stated they were agreeable to that.

**RON HOLE, 8315 PEACHTREE**, said he hasn't agreed to sell anything. He commented that there was a nail driven into the asphalt in the back of the fence [that he thought belonged to Mr. Patel] that he believes indicates the change in the property lines. He provided pictures, which were passed around for review by MAPC members. He said his property has a fence on it, with 15-foot pickets. He said 15-feet of this application involves him and that he hasn't agreed to do anything. He said there has been no discussion about a dumpster, lighting, landscaping or anything. He said he was concerned about lighting and the distance to his property. He said he did not think this was an appropriate plan and that the plan was pretty generic. He said the neighbor to the east of him has two fences, a chain link fence and a wood fence. He said they are going to take the chain link and move eight feet in and the existing fence is twelve feet in so there will be a four-foot strip between these two fences. He said he has heard nothing about taking the other fence down from his neighbor. He said he met with the Bonnie Brae Homeowners Association and read a letter dated 6-7-07 wherein the Board stated that they are unconditionally opposed to future expansion of Limited Commercial uses within the Bonnie Brae Addition to Wichita.

**ALDRICH** requested clarification that the application affected 15 feet of Mr. Hole's property and that he hasn't been contacted by the applicant or agent.

**HOLE** said from his property stake it was 15 feet from the existing property line. He said the City contacted him by letter. He said he was also asked by Mr. Bayouth to sell his property for \$1.00, but he elected not to do that because he felt it was disruptive to his property. He concluded by saying that he didn't know what the plan was, and he was not prepared to sell his property without someone speaking to him first.

**MARNELL** clarified that the 15 feet Mr. Hole was referring to started from the west boundary of his property line to the east boundary of the parcel.

**HOLE** responded yes.

**GREG BARKER, 8236 MORNINGSIDE, SECRETARY OF THE BONNIE BRAE HOMEOWNERS ASSOCIATION**, stated that the Bonnie Brae Homeowners Association is unanimously opposed to granting of this variance. He said they were opposed to any increased commercial encroachment in their neighborhood and that they were particularly concerned about the variance reducing the setback. He said he understood that eight feet sounds relatively benign, but that was not the real issue. He said the issue was having a motel looming over the neighborhood and that a 6-foot fence was completely irrelevant. He said they don't want travelers in the hotel peering over the neighborhood and invading their privacy. He said he wanted the MAPC to know that they were absolutely opposed to both the zoning change and the setback variance.

Responding to questions, **BARKER** explained that he lived a block away from the area in question; however, he was present to represent the Bonnie Brae Homeowners Association, which met monthly.

**BISHOP** asked if the applicant or agent had approached the homeowner's to discuss the project?

**BARKER** responded no.

**DOUG MARYOTT, MANAGER OF THE WICHITA INN EAST**, which is adjacent to this property, said there is a 30-foot setback rule on the south side. He asked if the new property was going to violate that setback rule?

**MILLER** responded no.

**DOWNING** asked **MILLER** to answer several questions on the variance. **MILLER** explained that there was a provision in the City Code (an exception) that allows the portico to be within eight feet of the front property line. He said because of the design, which had a twenty-four foot drive in front and then the 4-foot landscaping strip, the building is going to be set back 30 feet, but otherwise it could be as close as eight feet.

**ALDRICH** asked **MILLER** to comment on Mr. Hole's concerns.

**MILLER** stated that he thought Mr. Hole was concerned about the 15 feet that ran east/west from his corner property. He said that portion is already zoned "LC" Limited Commercial and the only part that is being rezoned is the rear of the four lots. He said they are not rezoning or doing anything that involves his property; his property line will remain the same. He said the boundary adjustment only applies from his west property line westward.

Responding to a question from **ALDRICH**, **MILLER** said there was an eight-foot wide utility easement on both the north and the south that included a sewer line. He said the applicant would have to build the wall outside the utility easement on either their side or the residential side. He said he understood that a wall was not allowed on a utility easement.

**MARNELL** asked about the requirement to have the east end of the eight-foot strip screened from the residential area.

**MILLER** said the applicant has indicated that they will close that gap when they construct the wall.

**ALDRICH** asked if they could get clarification on which side of the easement the wall would be located?

**WADLEY** explained that the red markings were survey marks. He referred to the map of the location and indicated where the building would be located on the property. He said the setbacks from the one property would exceed 60 feet. He said they are simply asking to replace the hotel that was torn down. He said this was not a new deal for the neighborhood because a hotel already existed there at one time. He said the 24-foot circulation would confine the traffic to the property instead of the street, which was good for both the neighborhood as well as the City.

**ALDRICH** asked if the wall would be built on the south side of the easement?

**WADLEY** said they had agreed with the neighbors to build the wall on the edge of their property, on their side.

**BISHOP** asked for clarification that the wall would be built on the single-family home property, which was on the north side of the easement.

WADLEY responded that was correct.

**MOTION:** To approve subject to staff recommendation.

ANDERSON moved, SHERMAN seconded the motion, and it carried (10-1). BISHOP - No.

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8. **Case No.: ZON2007-21** – Newman University c/o Mark Dresselhaus, Baughman Company, PA c/o Russ Ewy Request City zone change from “B” Multi-family Residential to “U” University on property described as;

Lot 1, Block A, Newman University 3rd Addition, Sedgwick County, Kansas. Generally located West of K-42 and southeast of McCormick and Sheridan Avenues.

**BACKGROUND:** The applicant requests “U” University zoning on Lot 1, Block A, Newman University 3rd Addition. The site is currently being developed as another building for university uses. The site is owned by Newman University, whose campus grounds are on both sides of Sheridan, south of Kellogg/US-54, west of Southwest Boulevard/K-42 and ending on its south side with property owned by the “Adores of the Blood of Christ” religious order. Most of the Newman University campus is zoned “B” Multi-family Residential and developed with buildings containing administration offices, classrooms and other uses associated with a small college. Playing fields, zoned “SF-5” Single-family Residential, used by the university’s sports teams are located west, across Sheridan, from the site. A portion of Newman’s, currently being developed as student housing, was approved for “U” zoning by the MAPC November 6, 2006; ZON2006-41.

The proposed zone change, from “B” to “U,” and the proposed development, would require conformance to all property development standards in the Wichita-Sedgwick County *Unified Zoning Code* (UZC).

**CASE HISTORY:** The site was recorded with the Register of Deeds as the Newman University 3<sup>rd</sup> Addition July 12, 2006.

**ADJACENT ZONING AND LAND USE:**

NORTH:	“B”	Newman campus and buildings
SOUTH:	“B”	Newman campus and buildings
EAST:	“B”	Newman parking lot and grounds
WEST:	“B”	Newman campus and buildings

**PUBLIC SERVICES:** The property is located south of McCormick Avenue, which intersects K-42 and West Street. McCormick is an urban collector street that has recently been rerouted and redesigned with a planting strip between its east-west lanes. City water and sewer as well as all other utilities are available at the site.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide Map”, identifies the application area as “Major Institutional”. This category includes institutional facilities of a significant size and scale or operation and could include a range of uses such as government facilities, military bases, libraries, schools, cemeteries, churches, hospitals and medical treatment facilities.

The “U” district is designed to serve as a base district or as an overlay district intended to accommodate the development of universities, colleges, seminaries, or other institutions of higher learning. As a base district it shall be applied to the main campus owned or leased by the educational institution. It may also be used as an overlay district on adjacent residential properties when the Planning Commission and the Governing Body have determined that the adjacent area is a logical and desirable location for: (1) Expansion of the university, college, seminary, or other institutions of learning, (2) Fraternities, sororities and related uses, (3) Offices, meeting rooms, laboratories and other facilities for educational, fraternal, professional, religious and research organizations and institutions with a demonstrated relationship to the university, college, seminary or other institution of learning, & (4) Libraries, art galleries, museums and other non profit cultural facilities that would provide a public benefit by such locations. The “U” district corresponds generally to the “Public/Institutional” land use designation of the *Wichita-Sedgwick County Comprehensive Plan*. The requested zoning conforms to the *Wichita-Sedgwick County Comprehensive Plan*.

**RECOMMENDATION:** The proposed “U” zoning is in conformance with the *Wichita-Sedgwick County Comprehensive Plan* and allows the university to begin to adopt a zoning classification that more truly identifies its

function, rather than its current mix of “SF-5” and “B” zoning. As this property develops, the UZC’s property development standards will apply. Based upon information available prior to the public hearings, planning staff recommends that the zone change request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The Newman campus, its associated playing fields, and the abutting religious order’s property are the only non-industrial zoning (“B”, “U” and “SF-5”) and development west of Southwest Boulevard to West Street and south of Kellogg Street to IH 235. The areas west of Newman are zoned “LI” and are developed as an auto salvage yard, warehouses, manufacturing, equipment rental and sales and outdoor storage and display. East of Newman, railroad tracks run parallel to Southwest Boulevard with mostly “LI” zoning and nonresidential development abutting it.
2. The suitability of the subject property for the uses to which it has been restricted: The current “B” zoning does not match the intent of the university to redevelop the site as a more integrated part of the campus. The requested “U” zone change is the second for the Newman campus and its associated properties and more accurately fits the function of the college.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: This zone change, and development, should have no detrimental effect on nearby property, as the site is located within the Newman campus.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested zoning change is in conformance with the “2030 Wichita Functional Land Use Guide Map”, which identifies the site and the Newman properties as “Major Institutional”.
5. Impact of the proposed development on community facilities: The requested rezoning should have not have any impact on community facilities.

**MOTION:** To approve subject to staff recommendation.

**JOHNSON** moved, **ALDRICH** seconded the motion, and it carried (11-0).

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9. **Case No.: ZON2007-22** – Christel Selcer (owner); Savoy Company PA c/o Mary Savoy (agent) Request County zone change from “RR” Rural Residential to “MF-18” Multi-family Residential on property described as;

Part of the West Half of the Southwest Quarter of Section 33, Township 28 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as follows: Commencing at the Southwest Corner of said Southwest Quarter; Thence North 90 degrees East, along the South line of said Southwest Quarter, 922.10 feet to a point of beginning; Thence North 00 degrees East, 40 feet; Thence North 03 degrees 36 minutes 07 seconds West, 99.72 feet; Thence North 04 degrees 50 minutes 12 seconds East,; thence 166.76'; thence N 16 degrees, 20 minutes, 45 seconds West; thence 288.82'; thence North 32 degrees, 51 minutes, 36 seconds West; thence 56.47 feet; Thence North 45 degrees 17 minutes 12 seconds West, 177.13 feet; Thence North 30 degrees 12 minutes 50 seconds West, 321.35 feet; Thence North 90 degrees East, 806.40 feet to the East line of the West Half of said Southwest Quarter; Thence South 00 degrees 38 minutes 20 seconds West, along the East line of said West Half of said Southwest Quarter, 1032.65 feet to the Southeast Corner of said West Half of said Southwest Quarter; Thence South 90 degrees West, along the South line of said Southwest Quarter, 403.17 feet to the point beginning. Generally located On the northwest corner of 99th Street East and 71st Street South (7114 South 99th Street East).

**BACKGROUND:** The applicant seeks “MF-18” Multi-family Residential zoning on a 12.46-acre site located at the northwest corner of 99<sup>th</sup> Street East and 71<sup>st</sup> Street South. The “RR” zoned site is developed with a single-family residence and four other buildings. One of the buildings appears to be a barn, and was converted to a residence capable of housing three additional residences.

County Code Enforcement advised planning staff that they have no record of building permits or inspections for the residential units in the barn. The “RR” district permits only one residence per zoning lot. The applicant has not demonstrated that the additional residences predate the 1985 adoption of countywide zoning, so the additional units are not a legal non-conforming use; this site does not appear on the list of non-conforming uses developed in 1985 when countywide zoning went into effect.

The unplatted site is located approximately 950 feet east of the Derby city limits. The site is within the Derby Small City Growth area, and Zoning Area of Influence, and will be heard by the Derby Planning Commission on May 17, 2007. All surrounding properties are zoned RR Rural Residential and developed with farmstead and/or agricultural uses. Surrounding ownerships are 19 acres or larger.

The MF-18 zoning district permits 18 dwelling units per acre. Under MF-18 zoning, the application area could in theory house over 200 dwelling units.

**CASE HISTORY:** None

**ADJACENT ZONING AND LAND USE:**

NORTH: RR Rural Residential; farmstead, agriculture  
SOUTH: RR Rural Residential; farmstead, agriculture  
EAST: RR Rural Residential; farmstead, agriculture  
WEST: RR Rural Residential; farmstead, agriculture

**PUBLIC SERVICES:** Municipal sewer and water services are not available. The site is within Sedgwick County Rural Water District 3. A creek runs on the west side of the site, and much of the site is within a FEMA flood zone. 71<sup>st</sup> Street South is a two-lane arterial at this location with an 80-foot Right of Way (ROW). The 2030 transportation plan designates it to remain a two-lane arterial. 99<sup>th</sup> Street East is an unpaved, unimproved street with only a 50-foot half width dedication.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide map depicts this site as within the Derby 2030 Growth Area. Derby annexes land into their single-family residential zoning district. Derby’s development pattern would predict single-family subdivisions at this site when services are available and annexation takes place. The Comprehensive Plan Objective I.C. states that the County is to enhance and encourage agricultural activities within Sedgwick County, recognizing that viable agricultural land exists within the County.

Sedgwick County Building and Health codes would require this site to comply with codes, and would require adequate water availability and sewage disposal for the number of dwelling units on the site.

**RECOMMENDATION:** The proposed multi-family rezoning is not consistent with the predominant RR zoning and agricultural uses existing in the immediate area. This zone change request is not consistent with the Comprehensive Plan Functional Land Use Guide designation of this area as within the Derby Growth Area, as property annexed into Derby is given single-family residential zoning.

The applicant has not demonstrated that sewer requirements, or water quantity and quality requirements can meet the density of the requested zoning. Staff would note that this property would be able to support one accessory apartment, and staff would recommend that the applicant consider filing a conditional use permit for one accessory apartment. Based upon information available prior to the public hearings, planning staff recommends that the request be DENIED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All immediately surrounding land is zoned “RR” Rural Residential; the multi-family zoning request is out of character with all adjacent properties.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned “RR” Rural Residential which primarily permits agricultural activities and large-lot residential uses. The site could be used under the current zoning for two-acre or larger lots. The current zoning is in character with immediately surrounding uses. The site could request a conditional use permit for one accessory apartment.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Rezoning will permit residential development at 36 times the density that is permitted by the existing zoning. Development under the requested zoning would change the character of the immediate area, increase traffic, and increase demand for public services such as law enforcement, fire protection, and code enforcement. On-site water and sewer systems for development under the requested zoning could have a negative affect on surrounding properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide map depicts this site as within the Derby 2030 Growth Area. This zone change request is not consistent with the Land Use Guide designation, as property annexed into Derby is given single-family residential zoning.
5. Impact of the proposed development on community facilities: The proposed increase in zoning density will increase traffic on 71<sup>st</sup> Street South, increase demand on law enforcement, fire protection and EMS, and increase demand on water resources.

**JESS MCNEELY** Planning staff presented the staff report.

**MCNEELY** explained that staff was not aware that there was any opposition to the case until they received a call from a neighbor yesterday. He said the barn has been used as a multi-family residence for quite some time. He said staff recommends denial because the "MF-18" Multi-family residential request is not consistent with surrounding "RR" Rural Residential zoning and it is not consistent with the agricultural uses in the area or the current Comprehensive Plan. He said it could be consistent with Derby's future plan once services are extended to the area, which would allow for multi-family development. He noted that the applicant has not demonstrated that on-site water and sewer requirements meet the density of the requested zoning. He said the Unified Zoning Code does make provisions for requesting a conditional use for one (1) accessory apartment and if this application was denied, staff would recommend that the applicant seek that type of request. He said another option was for the applicant to split the property. He referred to a letter from the City of Derby dated 5/18/2007 wherein the Derby Planning Commission recommended denial of the application by a vote of 5-2, and added that no neighbors were at the meeting to protest. He said there was some discussion of a Protective Overlay by the applicant's agent, but the Derby Planning Commission had issues approving the application because they do not want to annex property that is in a non-conforming use. He also mentioned Derby would like the location platted, which the applicant indicated he does not want to do.

Responding to a question from **GISICK** with reference to item #5 under Findings concerning unit occupancy, **MCNEELY** stated he thought two units were currently in use and one was not.

**MARK SAVOY, SAVORY COMPANY, PA, AGENT**, said the most important thing to get across was that they do not want to increase the density of this property. He said it has four units on it now and they do not want to increase that or change the building appearance. He said there is no zoning that allows for four units on a piece of property, so they are asking for the nearest zoning which was "MF-18" and that they would be willing to agree to a Protective Overlay that would limit density to the number of units there were presently there. He said the property is over a century old and the practical use for the barn as a barn has gone by the wayside. He stressed that they were not going to add units and; therefore, they did not need to demonstrate the need for additional sewer or water. He said they are trying to bring the residence into City Code compliance, and mentioned changes in the City Code that occurred in 1985. He added that this situation occurred shortly after the zoning change. He said in regards to the Derby Planning Commission's recommend denial, he said he believed Derby did not understand Protective Overlays. He commented that the area is 900 feet away from the City of Wichita and "MF" Multi-family zoning. He concluded by requesting approval of the "MF-18" zoning with a Protective Overlay limiting any other use that is included in "MF-18."

**ALDRICH** asked if the site was being used for a bed and breakfast?

**SAVOY** responded no.

**CHRISTEL SELCER, APPLICANT**, said the barn was built 100 years ago and is integral to the neighborhood. He said the only way to keep the building going was to have some type of income to help offset the maintenance costs of a building that old. He said eliminating one of the apartments would be create an \$800.00 monthly loss in revenue. He said the County has inspected the building and all parties have agreed on what needs to be done to



bring the building up to Code. He concluded by saying they wish to maintain this building and property in the same configuration that it already is. He reiterated that they are less than 950 feet away from "MF" and they don't see how this is much different then what has been done right down the street.

Responding from a question from **GISICK**, **MCNEELY** said he wasn't going to try to compare cases. He commented that this case concerned a policy issue as to whether or not, in the unincorporated County; multi-family can be supported with on-site water and sewer. He explained that the County would have to approve a sewer system if the zone change is approved. He said it was a policy issue whether to have multi-family development with on-site sewer.

**JOHNSON** asked if the City of Derby annexed the property than 200 units could be built on it?

**MCNEELY** responded no, but added that if and when the City of Derby annexes this location, they annex the area at the lowest zoning level, much as the City of Wichita annexes property, at single-family residential zoning.

**JOHNSON** asked if future use would be denser then it currently is once the area is annexed.

**MCNEELY** said yes; there would be more lots.

**JOHNSON** asked if there was a way to approve the "MF-18" with the restriction that no additional facilities be built until public utilities are available and/or the area is annexed by the City of Derby?

**MCNEELY** said a Protective Overlay could state that. He said another question would be whether the area was subject to platting, which he reiterated the City of Derby was adamant that they would want the area platted so they could obtain the dedications they needed for future growth. He said he believed Derby's concern was that if the use were allowed to stay and the property wasn't platted, the owner would have no incentive to plat and make the dedications Derby needed to continue future growth.

**ALDRICH** asked if staff's biggest concern was sewer requirements and also quantity and quality of the water supply?

**MCNEELY** said those issues were concerns as well as "jump in" zoning up to "MF-18".

**MOTION:** To approve "MF-18" with a Protective Overlay that no additional units be built on the 12.5 acres until public utilities and/or annexation by the City of Derby and subject to platting of the lot.

**JOHNSON** moved, **ANDERSON** seconded the motion.

**BISHOP** clarified that the motion included a requirement for platting?

**JOHNSON** said if anything changes on the property, it has to be platted.

**BISHOP** asked then they wouldn't have to plat it as is?

**JOHNSON** said that was correct.

**SUBSTITUTE MOTION:** To deny the application.

**BISHOP** moved, **VAN FLEET** seconded the motion, and it failed (8-3). **ALDRICH, ANDERSON, DENNIS, GISICK, HENTZEN, JOHNSON, MARNELL, SHERMAN** – No.

**ORIGINAL MOTION:** To approve the application for "MF-18" with a Protective Overlay.

**JOHNSON** moved, **ANDERSON** seconded the motion, and it carried (8-3).  
**DOWNING, VAN FLEET, BISHOP** – No.

10. **Case No.: CON2007-13** – WH Steffens and Ken Steffens Request City Conditional Use for a group residence, limited, on property zoned "SF-5" Single-family Residential on property described as;

Lot 3, Block B, University Park 2nd Addition, Sedgwick County, Kansas. Generally located Midway between 13th and 17th Streets North and Hillside and Oliver Avenues and southeast of Gentry and 16th Streets North.

**BACKGROUND:** The applicant is requesting a Conditional Use to allow a “group residence, limited,” located at 1646 North Gentry; Lot 3, Block B, University Park 2<sup>nd</sup> Addition. The subject site is zoned “SF-5” Single-family Residential. A group residence, limited is a Conditional Use in the “SF-5” zoning district. The Unified Zoning Code (UZO), Art.II, Sec.II-B, 5(l) defines a group residence, as “a residential facility providing cooking, sleeping and sanitary accommodations for a group of people, not defined as a family, on a weekly or longer basis. Typical uses include fraternity or sorority houses, dormitories, residence halls, boarding or lodging houses, children homes and emergency shelters for the homeless and for victims of crime, abuse or neglect.” It does not mean “group homes” or “correctional placement residences.” The UZO, Art.II, Sec.II-B, 5(m), states that a group residence, limited may be “occupied by 6-15 persons, including staff members who reside in the facility.” The applicant is seeking the Conditional Use after inspections by the Office of Central Inspection, OCI (which was responding to complaints from neighbors), determined the structure was no longer a single-family residence.

Currently the ground floor and basement of the residence serve as separate living units, with each floor having approximately the same square footage of living area, its own bathroom, kitchen and 3-4 rooms to rent. Because neither the ground floor nor the basement appears to be “subordinate to and serves a principle use or structure, is subordinate in purpose to the principle use or structure, contributes to the comfort, convenience or necessity of occupants of the principle use or structure, and is located on the same zoning lot as the principle use.”, neither can be considered an “accessory apartment”; UZO, Art.II, Sec.II-B, 1(c). As the residence is currently used, as confirmed by inspections by OCI, it is a duplex. The UZO, Art.II, Sec.II-B, 4(i) defines a duplex as “the use of a lot for two principle dwelling units within a single building.” Art.II, Sec.II-B, 4(j) of the UZO defines dwelling unit as “a building or portion of a building that contains living facilities for no more than one family or congregate residence for ten or fewer persons and that includes provisions for sleeping cooking, eating and sanitation.” Because OCI has determined that the residence is defined as a duplex the site would require a zone change to “TF-3” Duplex Residential to become a legal use. A zone change from “SF-5” to “TF-3” in this neighborhood would be a “spot zone” for this site. Spot zoning almost invariably involves a single parcel that is singled out for special treatment or privileges not in harmony with the other use classifications in the area and without apparent circumstances, which calls for different treatment. Being directed by OCI to either cease operating as an illegal duplex or seek a zoning change is not sufficient reason for Planning to justify recommending a spot zone change. Rather than seek the “TF-3” zoning the applicant has proposed to take the kitchen out of the basement unit, allow free access between the basement and the ground floor and apply for the Conditional Use for group residence, limited. If the applicant had only 5 people living in the residence the Conditional Use would not be necessary.

The subject site is located in a residential neighborhood south of Wichita State University (WSU). The site and the abutting and adjacent northern, southern and eastern properties, located south of 16<sup>th</sup> Street North, are zoned “SF-5” and appear to be single-family residences. The property located west of it, across Gentry Street is Fairmount Park, a public park zoned “SF-5.” There is “MF-29” and “B” Multi-family Residential zoning generally located west of the park and north of 16<sup>th</sup>. Within these multi-family residential zoning districts it is reasonable to speculate that there are other residential buildings that are group residences, limited, used by students attending WSU.

**CASE HISTORY:** The Office of Central Inspection (OCI) has had complaints about the residence, which resulted in them inspecting the building and determining that it was an illegal duplex, with building code issues that also needed to be resolved; see attached letter and inspections reports. The University Park 2<sup>nd</sup> Addition was recorded with the Register of Deeds September 14, 1948.

**ADJACENT ZONING AND LAND USE:**

NORTH:	“SF-5”	Single-family residences
SOUTH:	“SF-5”	Single-family residences
EAST:	“SF-5”	Single-family residences
WEST:	“SF-5”	Public park

**PUBLIC SERVICES:** Gentry is a paved residential street. The 2030 Transportation Plan projects no change in its status. All necessary utilities are present.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this site as appropriate for “urban residential.” The “urban residential” category includes all densities of residential development found within the urban municipality. The site is part of a mostly unbroken “SF-5” zoned neighborhood located from 16th to 14th Street North and from Oliver Avenue to Fairmount Park. There are no isolated “TF-3” or less restrictive zoned lots in this neighborhood. There are no other recorded group residences, limited in the area. West of the site there are continuous blocks of “TF-3,” “MF-29,” “B” and “LC” limited Commercial and zoned sites, which would allow the proposed group residence, limited (which is essentially a multi-family use) by right (“B” and “LC”) or to be considered as a Conditional Use (“TF-3” and “MF-29”). It appears the applicant owns “B” zoned property, north of Fairmount Park and ½-block west of the site, which would be an appropriate zoning for group residence, limited; the “B” zoned property is developed as an apartment complex.

**RECOMMENDATION:** The applicant is proposing a Conditional Use for a group residence, limited, to be located in a single-family residential neighborhood. The use of the subject site’s single-family residence as some type of residential use other than single-family, was reported to OCI by the neighbors. OCI’s subsequent inspection of the residence found that it was an illegal duplex that had also had building code issues. OCI advised the applicant to address both the building code issues as well as the zoning issue. The applicant is now proposing to make the duplex into a group residence, limited, by removing the basement’s kitchen and allowing free access for the site’s tenants between the basement and the ground floor. The use has been introduced into the single-family neighborhood before the zoning was resolved. It is a use that would be better located in the area west of Gentry, between 15<sup>th</sup> and 17<sup>th</sup> Streets North, to Hillside Avenue where the predominate zoning is “B,” “MF-29,” and “LC” Limited Commercial. Based upon information available prior to the public hearing, Staff recommends that the request be **DENIED.**

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The applicant’s request would introduce an isolated and what is essentially a multi-family residential type of use into a single-family residential, “SF-5” zoned neighborhood. The applicant’s request would bring an illegal nonconforming use into compliance. It is a use that would be better located in the area west of Gentry, between 15<sup>th</sup> and 17<sup>th</sup> Streets North to Hillside Avenue where the predominate zoning is “B,” “LC” (permitted by right) and “MF-29” (permitted as a Conditional Use) and where there is existing multi-family residential development.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is best suited to remain a single-family residence, zoned “SF-5.” It is doubtful that the applicant could provide the required off-street parking (1per house keeping unit, plus 1 per tenant = minimum of 7 parking spaces) within the front yard of the site, as stated in Art IV, Sec IV-A, 6 of the Unified zoning code.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Because of the area’s immediate proximity to WSU (the City’s largest college/university and the third largest in Kansas), there is always a potentially large student population looking for housing. The “TF-3,” MF-29,” “B” and “LC” zoning in the area west of Gentry Avenue reflects that student housing market; a short term renters/student market. Introduction of a group residence, limited (boarding house) at this isolated site would seriously compromise the single-family residential character of the neighborhood east of Gentry Avenue, by setting an undesirable precedent; opening up a short term renter’s site in what is predominately a “SF-5” zoned single-family residential neighborhood.
4. **Conformance of the requested change to adopted or recognized Plans/Policies:** Although the “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this site as appropriate for “urban residential,” the immediate area is strictly single-family residential. The proposed use of group residence, limited is out of character with its neighbors and would be better located west and north of the site, where that area’s “B” and “LC” zoning allow it by right, or in its “MF-29” zoning where it could be considered as a Conditional Use.
5. **Impact of the proposed development on community facilities:** Long term parking in the streets or the front yard.

**BILL LONGNECKER** Planning staff presented the staff report.

**LONGNECKER** reported that DAB I agreed with staff's recommendation and voted for denial of the application. He reported that the applicant and agent were not present; and added that they had not attend the DAB I meeting either.

**JOHN NEWMAN, 1652 GENTRY**, said he owned property to the north of this property. He said he was against the application because it was illegal. He said the property owner hasn't gotten it zoned for multi-family. He said since WSU is north of his property, they get the traffic and people trespassing across their property. He said he's had people park in his driveway and there were also trash issues. He asked the MAPC members, if they allowed this then how would they feel if this was in their neighborhood? He concluded by saying that there have been as many as 15 cars parked at the residence and he has had his own driveway blocked. He requested that the Commission deny the application.

**SHERMAN** commented that by law they can have up to five people living at the residence and he wanted Mr. Newman to understand if the Commission denies the application, the property owner is still allowed to have five people at the residence.

**NEWMAN** said he understood that but there has always been at least 5-10 people living there and at times more than that. He said most of the residents that live there park elsewhere and walk in so you can't tell how many people live there by the number of cars. He mentioned to the owner that trash was a problem and the property owner had laughed in his face, and that was when he went to the Office of Central Inspection.

**LONGNECKER** clarified that the house could have one kitchen, and bathroom facilities and living areas accessible for those 5 people living there.

**MARRINE JONES, 1641 N BLUFF** said the property in question is in her backyard. She commented on the excessive amount of trash and said she spoke to everyone living in the 1600 block of North Bluff, which was 13 homes. She said the idea of someone wanting to take single-family residence and putting that many people in one house is unbelievable. She again mentioned the trash in her backyard and that she was a senior citizen trying to keep her property up. She said the neighborhood does not want this.

**VERDENE NEWMAN, 1652 GENTRY** commented that the neighborhood is against this residence being used as an apartment, and they have been fighting this year after year including calling the Health Department because of the trash and the Police Department because of parking violations. She mentioned trying to get out of her own driveway and having to stop because someone else was parked there. She commented that if blight and other issues don't affect you, then you don't feel it. She said at one time they had 20 people living there who came and went at all hours of the night. She also mentioned the possibility of drug traffic. She said they have lived there for 23 years and that they care about their property and loved their neighborhood. She said it is difficult to see the neighborhood brought down by someone who is just there for profit.

**RANDY SPARKMAN, ZONING SUPERVISOR FOR FIELD INSPECTION, OFFICE OF CENTRAL INSPECTION**, briefly reported on OCI's inspection of the property as a result of the neighborhood complaints. OCI's inspection of the site found the following: bedrooms with pad locks to secure them put on by individuals who lived there, kitchens in the basement and the upper floor, structural problems including a fairly large crack in the fireplace from not being maintained, a separate entrances to the basement and the upper level from the outside with their own locks. He stated that there were at 5 people living in the lower level and that OCI had counted at least 8 unrelated people living there when they had conducted the inspection. He said the lower level was a mix of open and closed areas, some had doors, and some did not. He said a primary concern in the lower level was in the bathroom and shower area where when you stepped out of the shower you almost stepped into a sump pump hole located beside the shower. The sump pump's electric cord was plugging into an outlet within a foot of the shower. He said it was very feasible that you could splash water on the sump pump or electrical outlet or the frayed electric cord. He also reported that they identified other unresolved heating and air conditioning issues in the in the lower level. He stated that the general condition of the house was not very good. He said there were an awful lot of beer cans in the front yard and pizza boxes outside the trashcan in the front yard, which he felt validates the neighbor's comments about trash. He another Code violation was lack of egress windows out of the basement. He added that he also observed a discharge pump and hose coming out into the backyard, but he wasn't sure if it came from either the sump pump or the washing machine. He concluded by stating that there were some very noticeable Housing Code issues provided with the staff report, which were much more extensive than the items he just mentioned.

**SHERMAN** asked if the Zoning Division had a plan of action on how to get the residence back into conformance?

**SPARKMAN** responded that the residence is not really non-conforming; however, the way the residence is being used at the current time is illegal. He said the plan of action was dependent upon the outcome of today's hearing. He said if nothing were done, they would issue violation notices. He reiterated that the property owner would be allowed to have five unrelated people living at the residence, but that one of the kitchens would have to be removed and that free access from the basement to the ground level portion of the house would have to be provided to take the residence back to a single-family use.

**SHERMAN** asked if OCI oversaw the number of residents living at the location?

**SPARKMAN** explained that OCI responds to complaints, which are dependant on the neighborhood reporting what is going on.

**HENTZEN** asked if the application was denied, did OCI staff have the authority to enforce housing violations?

**SPARKMAN** responded yes sir; they could follow up on those violations.

**HENTZEN** clarified that denial of the application doesn't mean the property owner can continue violating the rules?

**SPARKMAN** said staff would pursue the issues.

**BISHOP** asked if there was anything in the City Code that addressed the parking issue?

**SPARKMAN** said the parking that is there probably meets the City Code and that the parking is probably adequate.

**MOTION:** To deny subject to staff recommendation.

**ALDRICH** moved, **BISHOP** seconded the motion, and it carried (11-0).

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11. **Case No.: CON2007-16** – Wayne Wong (applicant/owners); Terry Smythe, Baughman Company (agent)  
Request: City conditional use for ancillary parking on property zoned "TF-3" Two-family Residential.

Lot 31 and south 20 feet of Lot 30; Block 1, Westborough 2nd Addition, Wichita, Sedgwick County, Kansas. Generally located 500 feet north of Maple Street on the east side of Colorado Street (212 South Colorado).

**BACKGROUND:** The applicant requests a Conditional Use to allow ancillary parking on the south 20 feet of Lot 30 and all of Lot 31, Block 1, of the Westborough 2<sup>nd</sup> Addition. The subject site's 0.24-acre is zoned "TF-3" Two-family Residential, developed with a single-family residence, located 500 feet north of the intersection of Maple Street and Colorado Street, just west of West Street. The applicant needs the ancillary parking for his existing business, a restaurant, adjacent to the east of the subject site, along West Street. Ancillary parking areas are subject to the Supplementary Use Regulations contained in Article III, Section D.6.p of the Unified Zoning Code ("UZC").

The subject site is located in a predominately single-family residential area (homes built during the 1940's and 50's, west of West Street.) Commercial development is dense along West Street, with the subject site being located adjacent to one of the commercial uses between Douglas Avenue and Maple Avenue, along West Street. The subject site is located west of the applicant's business, Cinnamon's Deli, which is located along the west side of West Street. North and south of the business, the land is all zoned LC, with a retail store, another restaurant and a single-family residence. East of the business site, across West Street, is a fast food restaurant. Properties north and south of the subject site are zoned TF-3 and developed with single-family residences. West of the subject site is "SF-5" Single-family residential zoning, developed with single-family residences.

The attached site plan illustrates a proposed 24-stall parking lot with a 6-foot high privacy fence on its north and south sides, where it is adjacent to abutting TF-3 zoning and existing single-family residential development. Access

appears to be from either Colorado Street or West Street, through the restaurant's parking lot, along West Street. Landscaping has been identified on the site plan, but the type of landscaping is not addressed on the site plan.

**CASE HISTORY:** The application area (South 20 feet of Lot 30 and all of lot 31) was subdivided in April of 1938 as the Westborough 2<sup>nd</sup> Addition.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"TF-3" Two-Family Residential	Single-Family Residence
EAST:	"LC" Limited Commercial	Restaurant
SOUTH:	"TF-3" Two-family Residential	Single-family Residence
WEST:	"SF-5" Single-Family Residential	Single-Family Residence

**PUBLIC SERVICES:** City water and sewer services are available but will not be required for the proposed parking lot. 2006 traffic volumes along West Street, near the application area, were estimated at 21,924 average daily trips (ADTs). Traffic volumes (ADTs) along Colorado Street are not rated.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan indicates the subject property is appropriate for urban residential development. Ancillary parking areas may be permitted in residential zoning districts through approval of a Conditional Use, subject to the Supplementary Use Regulations contained in Article III, Section D.6.p of the UZC. The MAPC has an informal policy of supporting expansions of existing businesses at current locations, which the requested ancillary parking would seem to accommodate. The issue with the applicant's current request for additional parking is the location of the proposed parking lot. If approved, the parking lot would be located between two existing residences, with residences across the street from the proposed parking lot, in the middle of a residentially developed area. As verbally presented to the applicant's agent, the existing restaurant currently has the parking that is required for that particular use, even with the expanded right-of-way. The agent has been made aware staff would not support the application due to the location of the proposed parking lot, but that the applicant could apply for a zoning adjustment to reduce the amount of parking required.

**RECOMMENDATION:** The lot that the applicant's business is located in is approximately 21,780 square feet in size. The current use is a restaurant, with a drive-thru, requiring one parking space per three occupants, or 30-34 parking spaces for this commercial use. Per the applicants site plan, dashed lines outline the existing parking spaces and the spaces that are staying are outlined with solid lines. With this information, the site plan shows 40 existing parking spaces, which exceeds the minimum parking requirements for the restaurant use at this site. Staff feels that the applicant has applied for the Conditional Use for ancillary parking prematurely. The current zoned development pattern does not justify the rezone of a single lot that will project into a neighborhood. Isolated parking lots can be attractive nuisances. Based on the information available prior to the public hearing, and a site plan showing the location of the parking lot, MAPD staff recommends the request for ancillary parking be **DENIED**.

The staff recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The character of the area is predominantly single-family residential. There is commercial development along West Street, between Douglas Avenue and Maple Avenue, is dense with restaurants and retail stores, with the subject site being adjacent to the west of one of those commercial sites.
2. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The screening, lighting, and compatibility standards of the UZC, the landscape street yard, parking lot screening, and buffer requirements of the Landscape Ordinance, and the additional zoning restrictions of a Conditional Use could limit noise, lighting and other activity from adversely impacting surrounding residential uses. However, inserting a parking lot for a commercial use at a mid-block location that is developed with residential uses is unlikely to be a stabilizing use and could lead to disinvestment and neighborhood decline.
3. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies:** The 2030 Wichita Functional Land Use Guide of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan indicates the subject property is appropriate for urban residential development. Ancillary parking areas may be permitted in residential zoning districts through approval of a Conditional Use, subject to the Supplementary Use Regulations contained in Article III, Section D.6.p of the UZC. The

MAPC has an informal policy of supporting expansions of existing businesses at current locations, which the requested ancillary parking would seem to accommodate. The issue with the applicant's current request for additional parking is the location of the proposed parking lot. If approved, the parking lot would be located between two existing residences, with residences across the street from the proposed parking lot, in the middle of a residentially developed area.

4. The suitability of the subject property for the uses to which it has been restricted: The subject property is currently zoned TF-3 and is developed with a single-family residence. The subject site could be developed with uses permitted in that district and is desirable for single-family residential development due to its location in a residential development and its close proximity to commercial services. An ancillary parking area may be permitted with approval of a Conditional Use, but the use of the subject property as a parking lot could make the existing residential uses surrounding the subject site undesirable.
5. Impact of the proposed development on community facilities: The proposed use of this property would have a limited impact on community facilities, but there would be an increase of traffic along this stretch of Colorado Street.

If, however, the Planning Commission finds ancillary parking as an appropriate use for the south 20 feet of Lot 30 and all of Lot 31, Block 1, of the Westborough 2<sup>nd</sup> Addition, regardless of the location of the proposed parking lot, staff recommends that it be approved subject to the following conditions:

1. The ancillary parking area shall be developed and operated in conformance with the requirements of Article III, Section D.6.p of the UZC, except as noted in the conditions of approval.
2. A six-foot high screening fence shall be located on the north, south and west property lines entirely on the subject property and shall not extend beyond the west end of the paved surface of the parking lot.
3. A revised site plan addressing the conditions of approval shall be submitted for review by the Planning Director or his designee prior to the issuance of a building permit but no later than 180 days after approval of the Conditional Use.
4. All landscaping as required by the Landscape Ordinance and the conditions of approval for the Conditional Use shall be installed within a year of final action by the governing body and maintained per a landscape plan approved by the Planning Director or his designee prior to the issuance of a building permit but no later than 180 days after approval of the Conditional Use. The landscape plan shall specify the plant materials and method of irrigation in conformance with the requirements of the Landscape Ordinance.
5. The Conditional Use shall only be permitted for the parking lot. There will no parking of commercial vehicles without amending the Conditional Use permit.
6. As stipulated in Article III, Section D.6.p of the UZC, the parking lot shall be used for passenger vehicles only and in no case shall it be used for sales, repair work, or the storage, dismantling or servicing of any vehicles, equipment, materials or supplies.
7. The parking lot shall be paved and properly striped.
8. The applicants will maintain his property and keep it free of debris.
9. Development of the Conditional Use shall be commenced within one year from the date of approval of the Conditional Use shall be null and void.
10. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the UZC, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

**SHERMAN OUT @ 11:30 a.m.**

**DERRICK SLOCUM** Planning staff presented the staff report.

**ALDRICH** asked staff to clarify the request and to confirm that the entire area was residential.

**BISHOP** asked about the DAB I vote.

**SLOCUM** reported that DAB I voted to deny the application, per staff recommendation.

**RUSS EWY, BAUGHMAN COMPANY, AGENT**, stated that the property owner, Mr. Wong, as well as the business owner of Cinnamon's Deli, Larry Wilson, who was best able to describe the need for this additional parking area, were present at the meeting. He said this is not an uncommon request where there are older arterial streets that are fronted on one half of the block with commercial and office type uses sharing common backyard boundaries with residential homes. He said the four or five property owners they heard from said their primary concern was access to Colorado. He said they are completely in agreement with that and added that it doesn't make sense to mix commercial and residential traffic. He said at the DAB I meeting he made it clear that they were willing to take out access from the proposed parking lot to Colorado. He briefly reviewed the background on the project and commented that when West Street was improved, a lot of established businesses along the corridor were affected by the expansion. He said Cinnamon's Deli lost parking spaces due to site constraints. He said Cinnamon's leases space across West Street for employee parking. He concluded that parking at Cinnamon's is at a premium, and that this would be over flow parking and employee parking. He said all other issues are addressed by staff's suggested conditions of approval.

**LARRY WILSON, 733 ST. ANDREWS**, explained that parking is at a premium for his business because of the widening of West Street. He said the restaurant across the street that leases the space to him is losing half their parking and has notified him that the lease will not be extended. He said he does 70% of his business by 2:00 p.m. and he has 10-12 employees during that timer period who all drive cars. He said that will take 12 parking stalls, in addition to the three stalls the City is taking, which will only leave him 24 parking stalls for his customers. He mentioned this might also affect the City Code regarding "minimum parking". He concluded by saying that if he doesn't get additional parking, he will lose half his customers, half his business, and he will be face bankruptcy. He said he just couldn't walk away from the business because he has a lease and loan payments.

Responding to a question from **GISICK** concerning screening or buffering, **EWY** said City Code handles that issue but that the site will be enveloped within a six-foot privacy fence with landscaping buffers to soften and screen noise.

**ALDRICH** asked how many additional parking spots will be added if the application is approved?

**EWY** said twenty-four parking spaces, according to site plan.

**MARNELL** asked if they needed the entire lot to make this work?

**WILSON** said yes. In addition, he added if they do not have the exit onto Colorado, then they need a way for people to enter and exit, which takes up a lot of space.

**BISHOP** asked if access to Colorado were closed to vehicle traffic, would they consider having an access for pedestrian traffic?

**EWY** said he didn't think the applicant would have a problem, however, he thought area property owners would be better able to speak to that issue. He said as a developer's agent they encourage pedestrian access, but often times it is area residents that don't care for those connections.

**DORENE COCHRAN, 155 S COLORADO** said she felt this simply was not a good plan because of the commercial traffic on a residential street with so many single-family dwellings and so many children. She said she can appreciate the fact that the applicant may be facing difficulties if he doesn't get this extra parking; however, she said there are other options available other than the residential area. She said between his business and the area to the south there is a residential property for sale. She said they would not oppose his constructing additional parking there. She asked about the existing house on the property proposed for the parking lot and asked if that house would be moved? She said this would devalue the property of the residents on Colorado Street to let commercial encroach upon their quiet, lovely, well established residential neighborhood.



**KAREN LAMBERT, 200 S. COLORADO** said the trash and weeds she has along the backside of her fence, between Cinnamon's privacy fence and her fence is a battle every year. She said she grew up in this neighborhood and she didn't see where this proposal was going to do any good for anyone.

**WARREN GRUBE, 221 S. COLORADO** said he too was opposed to the application for a parking lot. He reiterated that there was a property between Cinnamon's Deli and Hogwild that could be purchased for this purpose. He said he had 11 protest petitions with him all opposing the application. He requested that the MAPC deny the request.

**JACK D. SHUMAN, 211 S. COLORADO**, said when you come off of Maple and turn onto Colorado they have semi-trucks that park on their street, which made it a mess to get down. He said he would hate to look out his dining room window and see a parking lot. He said it was an insult to him and how much money he spent to keep his house up. He requested that the Planning Commission deny the application.

**RUSS EWY** he said the existing house on the property would be removed. He said they felt there was adequate protection in the City Code and requirements borne by the applicant on construction of the parking lot and operation of the business. He said they have also agreed to remove any type of access from the parking lot to Colorado.

**ALDRICH** commented on the site plan and suggested eliminating the drive-through and diagonal parking, which would result in additional parking.

**EWY** said the site plan, including ancillary parking, would total 54 spaces. He said the redesign of West Street would provide 30 parking spaces. He said he believed the drive-through was critical to make the business profitable.

**WILSON** responded that the drive-through represents about 30% of his business, especially during the noon hour. Responding to questions from **ALDRICH**, he explained that the angle parking would make it easier for the customers to get in and out. He said his peak traffic hours were from 11:30 a.m. to 1:00 p.m. He added that the night shift represented about 25% of the business.

Tape 2, side 2

**DOWNING** asked staff to explain the parking issue.

**DONNA GOLTRY** Planning staff said the question came up why they weren't doing 90 degree parking. She said the Office of Central Inspection requires that you have two-way drive aisles that are a minimum of 24-feet wide to be able to use 90 degree parking. She said although she hasn't spoken to the person who prepared the site plan, she believes that explains the diagonal parking.

**MOTION:** To deny subject to staff recommendation.

**ALDRICH** moved, **BISHOP** seconded the motion, and it carried (8-2).

**VAN FLEET** and **JOHNSON** – No.

**BISHOP** commented that the kind of cases where expansion of arterials puts pressure on nearby businesses, which in turn puts pressure on the residential areas are very difficult. She said she feels for the business owner but said she believes he needs to look for solutions elsewhere.

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12. **Case No.: CON2007-17** – Maisch Family LP (owner), Kim La Count (tenant) Request City conditional use for a nightclub located within 200 feet of residential zoning on property zoned "LC" Limited Commercial on property described as;

Lot 2, D-J Addition, Wichita, Sedgwick County, Kansas. Generally located 900 feet south of I-235 on the west side of Seneca Street (3835 South Seneca Street).

**BACKGROUND:** The applicant requests a Conditional Use for a nightclub on a .63-acre platted lot with LC zoning. The proposed nightclub is within a larger strip center. The tenant space has been a restaurant/drinking establishment (DER license), which limits liquor sales to 50% of the total sales. A nightclub allows unlimited liquor

sales, regardless of food sales. The applicant desires a dance hall license to permit patron dancing, which constitutes a nightclub in the city according to Art.II, Sec.II-B, 9(b) of the Unified Zoning Code (UZC). Nightclubs are a permitted use in the LC zoning district, but require a Conditional Use when within 200 feet of church or place of worship, public park, school, or residential zoning district, per Art.III, Sec.III-D(w) of the UZC. The site is approximately 180 feet northwest of an “SF-5” Single-family Residential zoned residence on the opposite side of Seneca, requiring this Conditional Use application.

North of the site is a “GC” General Commercial zoned parking area, and an LC zoned office use. South of the site are LC zoned commercial uses, and an LC zoned apartment complex. East of the site is LC zoned parking, an “MH” Manufactured Housing zoned manufactured home park, an LC zoned residence, and an SF-5 zoned residence. West of the site is a GC zoned self-storage business.

The applicant submitted site plan does not mark parking spaces. Property under the same ownership as the applicant exists north, south, and east of the site. Staff would anticipate parking concerns to be resolved with a refined site plan, and an adjustment or variance from parking standards if necessary.

Northeast of this site, at the southeast corner of Seneca and I-235, a similar request was made and denied by the MAPC in February of this year. That site shared access from Seneca with an MH zoned residential area, and was in close proximity to a manufactured home residential area. Complaints from nearby residents were significant in that case denial.

**CASE HISTORY:** The site was platted a Lot 2, Block 1 of the DJ Addition; the building on the site was built in 1972.

**ADJACENT ZONING AND LAND USE:**

NORTH:	“LC,” “GC”	Parking, office
SOUTH:	“LC”	Parking, commercial uses, apartment complex
EAST:	“LC”	Parking, single-family residential
WEST: “GC”		Self-storage

**PUBLIC SERVICES:** The site has two access points onto Seneca Street. Seneca is a four-lane arterial street at this location with a 100-foot right-of-way (ROW). The current traffic volume along this portion of Seneca is approximately 13,972 vehicles per day. Projected 2030 traffic volume is 18,344 vehicles per day. All utilities are available to the site.

**CONFORMANCE TO PLANS/POLICIES:** The site is identified by the Land Use Guide of the Comprehensive Plan as appropriate for “Local Serving Commercial” development. This category’s uses are local in their customer base and include commercial, office, personal services, medical, auto repair, grocery stores, service stations, restaurants and on a limited basis mini-storage warehousing and small scale light manufacturing.

The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Comprehensive Plan Objective II.B. is to “Minimize the detrimental impacts of higher intensity land uses and transportation facilities located near residential living environments.”

The Unified Zoning Code requires a Conditional Use for a nightclub when it is located within 200 feet of a church or a place of worship, public park, school, or residential zoning. The site is not currently permitted for entertainment, including dancing for patrons. Approval of a nightclub Conditional Use would introduce live entertainment, or music by a DJ, dancing by patrons, and unlimited alcohol sales on this site.

**RECOMMENDATION:** This section of Seneca, between I-235 and MacArthur, has several existing bars, as listed uses on the City’s GIS mapping system. A nightclub at this site would not be introducing a new use into the general area. The application area has in the past been a restaurant/drinking establishment (DER license), which limits liquor sales to 50% of the total sales. The applicant now requests a Conditional Use for a nightclub, which allows unlimited liquor sales, regardless of food sales. The Conditional Use would also allow dancing, live music or music provided by a DJ. The residence triggering this Conditional Use request is approximately 180 feet southeast of the site, across Seneca. Staff does not see that the slight change in use should have a negative impact on this residence.

Increased activity at the site could cause parking problems, as it appears that several establishments share parking at this location. The question of available parking should be resolved; if the required parking is not available, the applicant can seek a reduction through an administrative adjustment or variance. Therefore, based upon the information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for a nightclub be APPROVED, with the following conditions:

- (1) The applicant shall submit a revised site plan, to be approved by Planning Staff, demonstrating that the site meets Unified Zoning Code parking requirements. If the site cannot meet these parking requirements, the site shall obtain a parking reduction through an administrative adjustment or variance before the Conditional Use shall be permitted.
- (2) No outdoor activity shall take place on the site.
- (3) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

**This recommendation is based on the following findings:**

1. The zoning, uses and character of the neighborhood: The requested Conditional Use will be one of several drinking establishments along this portion of Seneca. The nearest residential zoned property is 180 feet from this site, on the opposite side of Seneca. Other residences in the area include nearby apartments and a manufactured home park. LC and GC zoning immediately surround the site. The requested Conditional Use is not out of character with the general area.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC, which accommodates office and retail uses, including a DER, the site's former use as a restaurant that serves alcohol.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The unlimited liquor sales, the noise from the music and dancing, the hours of the nightclub and its parking all could have a detrimental impact on the nearby MH, LC, and SF-5 zoned residences. The conditions of the Conditional Use will help minimize the negative impact by keeping all activities indoors, and ensuring adequate parking.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies the site and the area as appropriate for "Local Serving Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Comprehensive Plan does not contain guidelines specifically for nightclubs, drinking establishments or taverns. However, the Plan does have an objective to minimize detrimental impacts of higher intensity land uses located near residential living environments. The conditions of the Conditional Use address this objective of the Plan.
5. Impact of the proposed development on community facilities: It is possible that approval of this request could result in an increased demand for police services.

**MOTION:** To approve subject to staff recommendation.

**JOHNSON** moved, **ALDRICH** seconded the motion, and it carried (11-0).

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13. **Case No.: CON2007-18** - Mark Miller (applicant/owner) Request City conditional use for ancillary parking on property zoned "GC" General Commercial within the D-O Delano Overlay District.

East 60 feet of Lots 31 & 32, Block 6, Junction Town Company Addition, Wichita, Sedgwick County, Kansas. Generally located 150 feet north of Douglas and 80 east of Vine Street (110 North Vine St.).

**BACKGROUND:** The applicant is requesting a Conditional Use to permit a parking lot in a GC zone within the Delano Neighborhood Overlay District. This property is just east of N. Vine Avenue, located north and east of the intersection of Douglas Avenue and Vine Avenue. Since the application area is located within the Delano Neighborhood Overlay District, a Conditional Use permit will be required in order to bring the existing parking lot into conformance with the Unified Zoning Code (“UZC”) and the Delano Overlay Regulations. The Delano Neighborhood Overlay District requires parking lots to be off-street, paved and properly screened and landscaped according to the regulations specified in the overlay.

The parking lot has been used for several years for the commercial businesses along Douglas Avenue. The Office of Central Inspection notified the owner that the parking lot would need a Conditional Use permit due to the location in the Delano Overlay District. The parking lot consists of about 3,050 square feet with a gravel surface. This conditional use, along with the Delano Overlay will require the parking lot owner to pave the lot and properly screen and landscape the lot from the properties to the north and west of the subject site.

Development to the north and west of the subject site are single-family residences zoned “SF-5” Single-family Residential. The property to the east of the subject site is a gravel parking lot zoned GC and to the south of the subject site are commercial retail uses zoned GC. Currently there is a wood fence along the north property, screening the parking for the residence to the west, but there is currently no screening along the west line to screen that residence from the parking lot.

The parking lot has access from N. Vine Avenue via an alleyway and is also accessible from Douglas via an access driveway located between 1718 and 1710 Douglas Avenue. The current site plan lacks specificity and is unclear in terms of parking spaces. The applicant will need to submit a revised site plan and landscape plan to be approved by staff.

**CASE HISTORY:** The application area (Lots 31 & 32) was subdivided in March of 1986 as the Junction Town Company Addition.

**ADJACENT ZONING AND LAND USE:**

NORTH:	“SF-5” Single-Family Residential	Single-Family Residence
EAST:	“GC” General Commercial	Vacant Land
SOUTH:	“GC” General Commercial	Retail Store
WEST:	“SF-5” Single-Family Residential	Single-Family Residence

**PUBLIC SERVICES:** Water and sewer services are available but will not be required for the proposed parking lot. 2006 traffic volumes along Douglas Avenue, near Vine, were estimated at 11,474 average daily trips (ADTs). Traffic volumes (ADTs) along Vine Avenue are not rated.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies this property as urban residential. The current zoning of the site is “GC” General Commercial, and is currently being utilized as a parking lot. The primary commercial use, fronting Douglas Avenue, which utilizes the lot, is located across an alley, directly south of the subject site. There are commercial uses directly south, southeast and southwest of the application area that are zoned “GC” General Commercial, and developed with commercial uses along Douglas Avenue. This parking lot is located within the Delano Neighborhood Overlay District. The district’s standards require parking lots in non-residential and mixed-use developments to be “off-street, located at the rear or side of the building, and shall have three to four feet high screening and a six feet wide landscape buffer adjacent to any public street. Screening shall consist of brick, ornamental ironwork or a poured-in-place masonry wall that is visually compatible with the architectural character of surrounding buildings, or any combination thereof.”

**RECOMMENDATION:** Based on the information available prior to the public hearing, and a site plan showing the location of the parking lot, MAPD staff recommends the application be APPROVED, subject to the following conditions:

1. The applicants will submit a revised site plan for approval by the Planning Director.

2. The Conditional Use shall only be permitted for the parking lot. There will no parking of commercial vehicles without amending the Conditional Use permit.
3. As stipulated in Article III, Section D.6.p of the UZC, the parking lot shall be used for passenger vehicles only and in no case shall it be used for sales, repair work, or the storage, dismantling or servicing of any vehicles, equipment, materials or supplies.
4. The parking lot shall be paved and properly striped.
5. The applicants shall erect and maintain a six-foot fence, of standard construction materials, along the western perimeter of the parking lot, and shall maintain the existing six-foot wooden fence along the north perimeter of the lot. A landscape buffer along the north and west property line shall be installed per the landscape ordinance.
6. The applicants will maintain his property and keep it free of debris.
7. Development of the Conditional Use shall be commenced within one year from the date of approval of the Conditional Use shall be null and void.
8. Any violation of the conditions approved, as a part of this request, shall render the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: There are single-family homes located to the north and west that are zoned "SF-5" Single-Family Residential. The business properties directly to the south, along Douglas Avenue, are zoned "GC" General Commercial. There are a number of commercial businesses along Douglas Avenue within the Delano Overlay District.
2. Extent to which removal of the restrictions will detrimentally affect nearby property. Staff is recommending that the applicants erect a six-foot screening fence; constructed of standard building materials, along the western property line, maintain an existing wooden fence along the northern property line.
3. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The 2030 Wichita Functional Land Use Guide of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies this property as urban residential. The current zoning of the site is "GC" General Commercial, and is currently being utilized as a parking lot. The primary commercial use, fronting Douglas Avenue, which utilizes the lot, is located across an alley, directly south of the subject site. There are commercial uses directly south and southeast of the application area that are zoned "GC" General Commercial. There are also commercial uses all along Douglas Avenue. This parking lot is located within the Delano Neighborhood Overlay District Map. The district's standards require parking lots in non-residential and mixed-use developments to be "off-street, located at the rear or side of the building, and shall have three to four feet high screening and a six feet wide landscape buffer adjacent to any public street. Screening shall consist of brick, ornamental ironwork or a poured-in-place masonry wall that is visually compatible with the architectural character of surrounding buildings, or any combination thereof."
4. The suitability of the subject property for the uses to which it has been restricted: The property is currently zoned "GC" and is developed with as a parking lot. Based upon the requirements of the Unified Zoning Code requirements for parking, the applicants are required to obtain a Conditional Use in order to use this property for parking purposes.
5. Impact of the proposed development on community facilities: The business to the south contributes to the traffic along Douglas Avenue. The proposed parking lot will minimize on-street parking.

**DERRICK SLOCUM** Planning staff presented the staff report.

**MARK MILLER, 2727 W. DRIFTWOOD CIRCLE, APPLICANT AND PROPERTY OWNER**, said the property has been used for parking for years prior to his acquiring it. He asked staff what were the results of the DAB meeting and also asked about paving.

**SLOCUM** reported that DAB I went by staff recommendation and voted to approve the application. He added that paving, in addition to the rest of his recommendations, were part of the requirements of the Delano Overlay.

**MARK MILLER** commented that they spoke with Dave Barber back in 2002 and asked that this location be left "GC" General Commercial zoning when the City established the Delano Overlay. He said nothing was mentioned to the property owners that anything needed to be done. He said he was puzzled why he was dealing with this issue now. He said when he called the Office of Central Inspection he was told that the question was raised, whether they could install new gravel. He requested that the application for the parking lot, as is with the gravel, be approved because it is instrumental for the businesses along Douglas Avenue.

**ALDRICH** commented that the bottom line was Mr. Miller was opposed to paving.

**MARK MILLER** said no, the question of paving was never raised to him. He said the question was "after the fact" because they just had the gravel brought in to upgrade the parking lot assuming they were legal. He said once the gravel was brought in they were notified that they were not "up to City Code".

**ALDRICH** asked Mr. Miller then he never checked on City Code prior to that?

**MARK MILLER** said they never checked on the City Code prior to buying the property and nothing was ever said about paving.

**BISHOP** stated that one of the things that goes along with paving is striping. She asked how many vehicles used the parking lot?

**MARK MILLER** said typically during the day during business hours, maybe four or five vehicles at the most, usually two to three. He said nighttime is a different issue because of the Shamrock located next to them. He said the Shamrock's patrons use the lot at night.

**HENTZEN** asked staff if you have "GC" zoning, do you have to pave your parking lot or can it be gravel; and does the overlay change the parking requirements in the Delano District? He commented that he had been to the site and indicated that drainage looked pretty good.

**DERRICK SLOCUM** indicated that the answer to the first question was yes.

**DALE MILLER** said if the alley weren't there, this case wouldn't be necessary. He said because of the alley the parking is not considered "on-site" and the Office of Central Inspection (OCI) said Mr. Miller needed to have the conditional use, because it does not confirm to the requirements of the Delano Overlay. He quoted a portion of the overlay pertaining to paving.

Responding to a question from **JOHNSON**, **SLOCUM** indicated Mr. Miller has parking at their business site. There was discussion concerning other alternatives including removing the gravel.

**ALDRICH** said obviously this has been a gravel parking lot for a long time, why is this an issue now? He also asked if this could be "grand fathered" in?

**SLOCUM** said basically they just got caught. He said the applicant received direction from OCI to meet with Planning Staff to obtain a conditional use.

**DALE MILLER** indicated there must have been a complaint.

Responding to a question from **ALDRICH**, **SLOCUM** indicated that the site has been used as a gravel parking lot since before establishment of the Delano Overlay.

**BISHOP** commented on condition #4 of the staff report that stated, "the parking lot shall be paved and properly striped." She said she had a problem with that condition. She said she has been told that gravel parking lots are

about as impervious as concrete; it looks like this lot has existed this way for a long time; and if it is being maintained without it being a drainage issue or dangerous for vehicles to use, she suggested approving the application with the exception of #4.

**SLOCUM** said he added that condition because it is a part of the Overlay District.

**ALDRICH** reiterated that he felt this should be “grand fathered” in.

**DALE MILLER** explained that the Zoning Code has always had a requirement that parking lots be paved and said this has nothing to do with the Overlay. He said the Commission can approve the application without the paving requirement, but it will still be illegal and the applicant will not be able to use it if Code Enforcement enforces the City Code. He said it will take a variance to remove the requirement and the Commission does not have that authority.

**BISHOP** said she conceded the point; however, she thought the Zoning Code needed to be addressed because she felt it required too much paving, unless and until permeable concrete was perfected.

**GISICK** clarified that the application can be approved without item #4 and then the applicant can apply for a variance.

**SLOCUM** said that was correct.

**JOSHUA SUCHER, 10012 W. 20<sup>TH</sup>**, said he owned the property at 110 Vine. He said he would much prefer the raw gravel parking lot and putting a fence in his back yard. He said he bought the residence as investment property. He said trash is a problem but that was not from the Mr. Miller’s building but from the local drinking establishment. He said he would rather have rock and less parking on the lot, than asphalt and more parking by the bar patrons.

**ANITA SIEMER, 7031 E. 39<sup>TH</sup> STREET NORTH**, said she owned the bookstore that was one of the businesses that utilized the parking lot. She said parking in front of her business was reduced due to a school crosswalk and light. She commented that the lot was sand for a long time until Mr. Miller came in and graveled it, which she thought helped with drainage.

**MARK MILLER** asked why this couldn’t be “grand fathered” in and said he would like the application approved as is without any restrictions.

**MOTION:** To approve subject to staff recommendation.

**JOHNSON** moved, **ALDRICH** seconded the motion.

**SUBSTITUTE MOTION:** To approve subject to staff recommendation, without condition #4 of the staff report.

**GISICK** moved, **ALDRICH** seconded the motion, and it carried (7-3).

**JOHNSON, DENNIS, ANDERSON** – No.

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14. **Case No.: CON2007-19** – Keith Newcomer, owner Request County conditional use for an accessory apartment on property zoned “RR” Rural Residential.

East 100 acres of the Northeast 1/4 exc. North 920 feet and exc. Rd. on East 3-26-1E. Generally located On the west side of Hillside 900 feet south of 77th Street North (7621 North Hillside).

**BACKGROUND:** The applicant seeks a Conditional Use to permit an “accessory apartment” at 7621 North Hillside, an unplatted lot containing 63.27 acres. The site is developed with a residence served by septic. The applicant proposes to install a 56 by 32-foot accessory apartment (1,792 square feet) that will be tied into the same water and septic system as the primary structure. The accessory structure is to be located behind the principal structure, that is 2,092 square feet in size, and complies with applicable setbacks. See the attached site plan for more details.

The application area is located north of the city, in the county, surrounded by large lot residential/agricultural uses. All adjoining property is zoned "RR" Rural Residential.

**CASE HISTORY:** County Board of Zoning Appeals case (BZA 10-87) on 10-5-87 allowed an exception for the placement of a mobile home on a temporary basis.

**ADJACENT ZONING AND LAND USE:**

NORTH: "RR" Rural Residential; agriculture  
SOUTH: "RR" Rural Residential; mobile home park  
EAST: "RR" Rural Residential; residential structure/agriculture  
WEST: "RR" Rural Residential; agriculture

**PUBLIC SERVICES:** The property is located on North Hillside Road, a two-lane, paved, section line road with 50 feet of right of way. The property utilizes an existing septic tank for sewage and an existing well for water.

**CONFORMANCE TO PLANS/POLICIES:** The *Wichita-Sedgwick County Unified Zoning Code* Section III-D.6.a states that accessory apartments are required to be under the same ownership as the primary residence, compatible in appearance with the primary residence, and utilize the same water and sewer service as the primary residence. The Comprehensive Plan depicts this site within Park City's Zoning Area of Influence.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The applicants shall obtain all applicable permits including, but not limited to: building, health and zoning.
2. Development and maintenance of the site shall be in conformance with the approved site plan and Unified Zoning Code Standards.
3. If operations have not begun within one year of approval, or if the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All property surrounding the application area is zoned RR and intended or developed for single-family residential use. The area is rural in character with large-lot residential uses.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned RR, which primarily permits agriculture and large lot residential uses. The site could continue to be used without the Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Provided that the proposed accessory apartment meets all applicable codes, the proposed accessory use should have no affect on the surrounding properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested conditional use is in conformance with *Wichita-Sedgwick County Comprehensive Plan* goals of efficiently using land and providing affordable housing options, and the *Wichita-Sedgwick County Unified Zoning Code* Supplementary Use Regulations
5. Impact of the proposed development on community facilities: Approval will not impact community facilities to any significant degree.

**MOTION:** To approve subject to staff recommendation.

**JOHNSON** moved, **ALDRICH** seconded the motion, and it carried (11-0).



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15. **Case No.: CUP2007-19** – Webb Road Partners, LLC (owner); kemiller engineering c/o Kirk Killer (agent) Request DP-260 Amendment #2 to add personal improvement service on property zoned “GO” General Office on property described as;

Lots 2 and 3, Block 1, Wilson Estates Medical Park 2nd Addition, Sedgwick County, Kansas. Generally located Approximately 600 feet west of Webb Road, south of Wilson Estates Parkway (1927 North Webb Road).

**BACKGROUND:** The applicant (Webb Road Partners, LLC) requests Amendment #2 to DP-260 Wilson Estates Medical Park Community Unit Plan to permit personal improvement service as an allowable use in order to have licensed massage therapy as the main use in a proposed office building. Personal improvement service is allowable in the “GO” General Office district only if permitted as a conditional use, which can be granted by the CUP amendment process.

Currently DP-260 is zoned GO and is developing with a complex of medical services including general medical offices, specialty medical offices, dental, and optometry/eye care. Massage therapy has been permitted as an accessory use within a medical office building that provides medical services primarily. However, the applicant wishes to construct a separate building with massage therapy as the principal use rather than accessory use, and would like the ability to add other personal improvement services. Since most personal improvement services are more like general retail, staff would recommend limiting it to licensed massage therapy only or perhaps allowing spa services related to medical care.

The property surrounding DP-260 is zoned “SF-5” Single Family Residential. Townhouse condominiums and duplexes are located or being constructed to the north. Single-family residences are located to the south and west, with a 100-foot right-of-way and 100-foot utility easement along the south property line and a wide landscape buffer reserve on the residential development to the west. The property east of Webb Road is developed with a large church, some multi-family residential and commercial uses.

**CASE HISTORY:** The property is platted as Wilson Estates Medical Park 2<sup>nd</sup> Addition, recorded January 4, 2004. DP-260 was created from a portion of CUP DP-201 to be developed as a medical park in 2000. Amendment #1 altered parcel configuration and CUP boundaries.

**ADJACENT ZONING AND LAND USE:**

NORTH:	SF-5	Townhouse and duplex
SOUTH:	SF-5	Single-family Residential
EAST:	SF-5	Church
WEST:	SF-5	Single-family Residential

**PUBLIC SERVICES:** The property has access via Wilson Estates Parkway, a collector street, and a private drive connected to Webb Road, an arterial street. Other normal public services are available.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “local commercial.”

Commercial Objective III.B encourages future commercial areas to: “Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to the adjacent residences.” The requested change could potentially increase the impact on the adjacent residential, but the impact will be minimized by the more stringent development standards required by DP-260. Strategy III.B.3 seeks to reduce access points along arterial streets. Commercial Locational Guideline #1 of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. In this case the access to the Webb Road is from a collector street, Wilson Estates Parkway, and one private drive within the medical complex. Commercial Locational Guideline #3 recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use, and #4 recommends compact clusters versus extended strip development.

**RECOMMENDATION:** Based on the information available prior to the public hearings, planning staff recommends that the CUP be amended as follows:

1. Proposed uses for Parcels 2 and 10 shall be revised to include general office and medical service and including personal care service limited to licensed massage therapy and spa services as a medical service. The operation shall obtain all required state and local licenses and approvals required for this operation.
2. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
3. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
4. The applicant shall submit 4 revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by MAPC, or the Governing Body, if required, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Currently DP-260 is zoned GO and is developing with a complex of medical services including general medical offices, specialty medical offices, dental, and optometry/eye care. Massage therapy has been permitted as an accessory use within a medical office building that provides medical services primarily. However, the applicant wishes to construct a separate building with massage therapy as the principal use rather than accessory use. The property surrounding DP-260 is zoned "SF-5" Single Family Residential. Townhouse condominiums and duplexes are located or being constructed to the north. Single-family residences are located to the south and west, with a 100-foot right-of-way and 100-foot utility easement along the south property line and a wide landscape buffer reserve on the residential development to the west. The property east of Webb Road is developed with a large church, some multi-family residential and commercial uses.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "GO" General Office and could be developed as currently zoned and approved by the CUP.
5. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed recommendation limits the range of personal improvement services to licensed massage therapy and spa services. The property is well buffered and is subject to the medical park CUP development provisions, all of which should reduce adverse impacts on surrounding property owners.
6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "local commercial." Commercial Objective III.B encourages future commercial areas to: "Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to the adjacent residences." The requested change could potentially increase the impact on the adjacent residential, but the impact will be minimized by the more stringent development standards required by DP-260. Strategy III.B.3 seeks to reduce access points along arterial streets. Commercial Locational Guideline #1 of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. In this case the access to the Webb Road is from a collector street, Wilson Estates Parkway, and one private drive within the medical complex. Commercial Locational Guideline #3 recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use, and #4 recommends compact clusters versus extended strip development.
5. Impact of the proposed development on community facilities: The proposed amendment should be minimal since it does not alter the potential traffic generation for the property.

**DONNA GOLTRY** Planning staff presented the staff report.

**GOLTRY** said the staff report should read Parcel #2 and Parcel #10, instead of just Parcel #10. She commented that staff has received a letter of opposition from a resident in Country Place, which she referred to as a hand out, pointing out that he does not view the licensed massage therapy or the medical spa as being true medical services and that they would be of lesser stature than the type of medical services already occurring in the area.

**KIRK MILLER, AGENT**, said they were in agreement with staff comments.

**MOTION:** To approve subject to staff recommendation.

**JOHNSON** moved, **ANDERSON** seconded the motion, and it carried (10-0).

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16. **Case No.: CUP2007-20** – Regency Land Company, LLC (owner); PEC c/o Rob Hartman (agent)  
Request DP-234 Amendment #2 to Parcel 7 and 8 to increase building height to 55 feet, combine parcels and adjust parking requirements for hotel use on property described as;

Lots 7 and 8, Block 1, Regency Lakes Commercial 2nd Addition, Sedgwick County, Kansas.. Generally located On the southwest corner of K-96 and Greenwich Road.

**BACKGROUND:** The applicant (Regency Land Company, LLC) requests Amendment #2 to DP-234 Regency Lakes Commercial Community Unit Plan to combine Parcel 7 and 8 located on the southwest corner of Greenwich Road and K-96 on property zoned “LI” Limited Industrial. Also, the amendment would increase building height from 35 feet to 55 feet, increase maximum floor area to 70,000 square feet, and reduce parking for hotel use to one space per room plus 10 additional spaces. The changes are requested for a potential hotel use.

DP-234 is developed with a SuperTarget, a large specialty store, and a restaurant. Several parcels are undeveloped along Greenwich Road. The CUP was originally designed for large-scale retail uses but with a possible alternative of industrial use. The zoning was split between “LC” Limited Commercial along 21<sup>st</sup> Street North and LI on the balance of the tract. The property north of K-96 is zoned LI and developed with large industrial uses. The property to the east and south is zoned LC is vacant except a strip commercial center located to the east. The property to the west is zoned “SF-5” Single-family Residential and developed with single-family residences.

**CASE HISTORY:** The property is platted as Regency Lakes Commercial Addition, recorded February 28, 2004. DP-234 was approved in 1998. Amendment #1 in 2003 reconfigured parcel boundaries and amended sign provisions.

**ADJACENT ZONING AND LAND USE:**

NORTH:	LI	Industrial
SOUTH:	LC	Retail, vacant
EAST:	LC	Retail, vacant
WEST:	SF-5	Single-family residences

**PUBLIC SERVICES:** Traffic counts for 2006 at the intersection of Greenwich Road and 21<sup>st</sup> Street North were 15,390 vehicles per day. 21<sup>st</sup> Street North is a major arterial improved to four lanes and center turn lanes. Greenwich Road also is a major arterial and being constructed to four lanes with center turn lanes. Other normal public services are available.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “regional commercial.” The intended use for a hotel is in conformance with this designation. The requested changes increase the parcel’s maximum gross floor area by placing a multistory hotel on the property and reducing the parking requirements. Any parking need beyond that provided by site would need to be provided by the adjacent parcels within the CUP, which relies on shared parking fields within the larger CUP development and which follows Comprehensive Plan strategies for commercial development to utilize shared parking.

**RECOMMENDATION:** Based on the information available prior to the public hearings, planning staff recommends that the CUP be amended as follows:

1. Parcel 7 and Parcel 8 be combined to a single parcel with a maximum building height of 55 feet and a maximum gross floor area of 70,000 square feet (62%). Parking requirements for hotel use for the new Parcel 7 shall be one space per unit plus 10 additional spaces for office/commons area associated with the hotel.
2. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
3. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
4. The applicant shall submit 4 revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by MAPC, or the Governing Body, if required, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: DP-234 is developed with a SuperTarget, a large specialty store, and a restaurant. Several parcels are undeveloped along Greenwich Road. The CUP was originally designed for large-scale retail uses but with a possible alternative of industrial use. The zoning was split between "LC" Limited Commercial along 21<sup>st</sup> Street North and LI on the balance of the tract. The property north of K-96 is zoned LI and developed with large industrial uses. The property to the east and south is zoned LC is vacant except a strip commercial center located to the east. The property to the west is zoned "SF-5" Single-family Residential and developed with single-family residences.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed as currently zoned and approved by the CUP but would not allow the placement of the multi-story hotel without the requested amendment.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed recommendation limits the range of personal improvement services to licensed massage therapy and the property is well buffered and is subject to the medical park CUP development provisions, all of which should reduce adverse impacts on surrounding property owners.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "regional commercial." The intended use for a hotel is in conformance with this designation. The requested changes increase the parcel's maximum gross floor area by placing a multistory hotel on the property and reducing the parking requirements. Any parking need beyond that provided by site would need to be provided by the adjacent parcels within the CUP, which relies on shared parking fields within the larger CUP development and which follows Comprehensive Plan strategies for commercial development to utilize shared parking.
5. Impact of the proposed development on community facilities: The proposed amendment should be minimal since it does not significantly alter the potential traffic generation for the property.

**DONNA GOLTRY** Planning staff presented the staff report.

**GOLTRY** reported that staff hasn't received any protests on this application.

**BISHOP** said she believed staff was recommending something slightly different than what the applicant was looking for and she wanted to give the applicant an opportunity to respond to that, but obviously she was mistaken and she apologized.

**ROB HARTMAN, PEC AGENT**, said they are in agreement with staff comments.

**MOTION:** To approve subject to staff recommendation.

**ALDRICH** moved, **MARNELL** seconded the motion, and it carried (10-0).

17. **Case No.: CUP2007-21** – Legacy Bank (owner); Luminous Neon c/o Marjorie Johnson (agent)  
Request DP-19 Amendment #3 to allow an additional sign face area and an additional sign on Parcel 2.

Lot 2, Block A West Center Addition, Sedgwick County, Kansas. Generally located On the southeast corner of Central Avenue and Tyler Road.

**BACKGROUND:** The applicant, Legacy Bank, proposes to add a new monument sign at the corner of Central Avenue and Tyler Road on Parcel 2 of DP-19 West Center Community Unit Plan. The property is zoned “LC” Limited Commercial. Currently Parcel 2 has two small signs, located at the eastern edge and southern edge of the parcel, which serve mostly as directional-type signs. The owner wishes to add a third, larger sign at the corner as the main business identification sign. It would be a monument-type sign approximately ten feet in height and placed at a diagonal angle to the intersection with the sign face directed to the northwest (see Exhibit 1 and 2). Also, the sign would have a continuous message board (see Exhibit 3).

The Wichita Sign Code allots ground or pole sign locations based on an incremental spacing of 150 feet between signs and considers a CUP as a single zoning lot for signage calculation purposes. Some administrative flexibility in spacing (by up to 1/3) is permissible but the Sign Code precludes using this flexibility in spacing to add to the number of allotted sign locations. If a sign is placed within 50 feet of the intersection and faces both directions of travel, it is considered a sign adjacent to each street (Wichita Sign Code 24.04.221.1).

For DP-19, the allocation for signs would be four signs on each street. While only two signs have been placed on Central, five signs already are placed on Tyler Road, already exceeding the Sign Code allowances. Any increase could only be granted either by an action of the governing body, relying on the permissive language of the Unified Zoning Code that allows the CUP approval/amendment process to set specific requirements related to signage and other site development elements, or by a variance.

The intersection of Central and Tyler Road has “GC” General Commercial zoning on the northwest corner of the intersection and is developed with a car dealership. All other corners of the intersection are zoned LC and developed with a variety of uses including banks, restaurants, a mini-storage warehouse, a hardware store and several small commercial strip centers. An apartment complex is located approximately one block to the east and south on property zoned “GO” General Office and “MF-29” Multi-family Residential.

**CASE HISTORY:** The property is platted as West Center Addition, recorded October 19, 1966. DP-19 West Center Community Unit Plan was approved originally in 1966. Amendment #1 in 1984 increased the intensity of development allowed on Parcel 1-A, the abutting parcel to the south. Amendment #2, approved March 8, 2001, allowed a 165-foot monopole wireless communication tower on the northeast corner of Parcel 1-A. An administrative adjustment granted September 25, 2001, adjusted the spacing between three signs on Parcel 1-A but did not increase the number of signs (which already exceeding Wichita Sign Code provisions). An administrative adjustment granted November 16, 2005 reduced the spacing of a sign near the northwest corner (in the same general location as requested by this adjustment) of Parcel 2. Its location, as shown on the exhibit submitted with the adjustment request, placed the sign far enough from the corner of the parcel to charge the sign location only to the Central frontage and avoid the need to charge it to Tyler, which was already over-allocated.

**ADJACENT ZONING AND LAND USE:**

NORTH:	LC, GC	Restaurants, car dealership, vacant
SOUTH:	LC	Retail, restaurants, mini-storage warehouse
EAST:	LC, GO, MF-18	Bank, apartments
WEST:	LC	Shopping center, hardware store

**PUBLIC SERVICES:** The proposed amendment pertains only to signage regulations and has no impact on public services.

**CONFORMANCE TO PLANS/POLICIES:** The Comprehensive Plan Land Use-Commercial/Office Objective/Strategy III.B.2 seeks to integrate the development of out parcels to planned retail centers through combined signage. The requested sign does not follow this guideline since it is the third ground or pole sign for Parcel 2. However, the other two small signs located at the entrances to the parcel serve primarily as directional type signs and this sign would be the principal business identification sign for the bank. The adjacent uses (a bank on the east and a fast-food restaurant on the south) each already have their own signs. Sign control is one of the elements that can be established by CUPs (Unified Zoning Code, Article III, Section III-C.2.a Purpose) with the general guidelines of character of the development appropriate to the neighborhood and to minimize any diminution to surrounding property. The proposed sign will be modest in height and size. Its continuous message board and placement angle will make it somewhat unique in appearance relative to other signs in the vicinity. The general character of signage at the corner of Central and Tyler is of a multiplicity of styles and shapes spaced close together, lending to a general feeling of sign clutter. Approval of this amendment may add to this perception, but does not alter the pattern already established on the northeast and southwest corners of this intersection.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED to allow one monument sign located at the corner of Central and Tyler Road on Parcel 2 substantially in conformance with Exhibits 1-3.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Parcel 2 is zoned "LC" Limited Commercial and developed with a bank. It is part of DP-19 West Center Community Unit Plan. The intersection of Central and Tyler Road has "GC" General Commercial zoning on the northwest corner of the intersection and is developed with a car dealership. All other corners of the intersection are zoned LC and developed with a variety of uses including banks, restaurants, a mini-storage warehouse, a hardware store and several small commercial strip centers. An apartment complex is located approximately one block to the east and south on property zoned "GO" General Office and "MF-29" Multi-family Residential.
2. The suitability of the subject property for the uses to which it has been restricted: The property is suited for uses to which it has been restricted.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The placement of the sign as requested will add to the amount of signage competing for motorists attention at the intersection but otherwise will not detrimentally affect nearby properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Comprehensive Plan Land Use-Commercial/Office Objective/Strategy III.B.2 seeks to integrate the development of out parcels to planned retail centers through combined signage. The requested sign does not follow this guideline since it is the third ground or pole sign for Parcel 2. However, the other two small signs located at the entrances to the parcel serve primarily as directional type signs and this sign would be the principal business identification sign for the bank. The adjacent uses (a bank on the east and a fast-food restaurant on the south) each already have their own signs. Sign control is one of the elements that can be established by CUPs (Unified Zoning Code, Article III, Section III-C.2.a Purpose) with the general guidelines of character of the development appropriate to the neighborhood and to minimize any diminution to surrounding property. The proposed sign will be modest in height and size. Its continuous message board and placement angle will make it somewhat unique in appearance relative to other signs in the vicinity. The general character of signage at the corner of Central and Tyler is of a multiplicity of styles and shapes spaced close together, lending to a general feeling of sign clutter. Approval of this amendment may add to this perception, but does not alter the pattern already established on the northeast and southwest corners of this intersection.

**DONNA GOLTRY** Planning staff presented the staff report.

**GOLTRY** reported that DAB V was concerned that there was inadequate right-of-way (ROW) on Central, which was being widened and they did not want the sign to be located within the future ROW area. She said they are asking that the Commission add a requirement that the site plan be reviewed to insure that the sign is not in the proposed future ROW area so the City will not have to encumber the cost of moving the future sign.

**DENNIS** indicated for the record that he was a member of DAB V and that he had heard this case on Monday, June 4, 2007.

**ALDRICH** asked about new guidelines or regulations on the flashing, luminous signs? He asked why the Commission kept approving the signs? He said this is a busy intersection and he did not like the signs.

**DIRECTOR SCHLEGEL** responded that there were no new guidelines yet, however, OCI has a proposal for City Council review. He commented that the signs are legal. He said the issues on these signs are illumination and the frequency at which the message appears and/or changes. He said this issue is being reviewed by the City Council.

**MARGE JOHNSON, LUMINOUS NEON SIGNS, 1429 W. 4<sup>TH</sup>, HUTCHINSON, AGENT**, aid they are aware of the issue of the brightness of the signs. She mentioned the ability to dim the sign either automatically or manually and said the sign was a quality product that will be used appropriately by Legacy Bank.

**MOTION:** To approve subject to staff recommendation.

**HENTZEN** moved, **BISHOP** seconded the motion, and it carried (10-0).  
**DENNIS** abstained.

**CHAIRMAN DOWNING** clarified that the motion does include the applicant will coordinate with staff to insure that the sign not located in the new ROW.

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The Metropolitan Area Planning Department informally adjourned at 12:35 p.m.

State of Kansas)  
Sedgwick County) <sup>ss</sup>

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on \_\_\_\_\_, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
John L. Schlegel, Secretary  
Wichita-Sedgwick County Metropolitan  
Area Planning Commission

(SEAL)